

1 **STATE OF GEORGIA**
2 **COUNTY OF FULTON**

3 **CITY OF SOUTH FULTON**

ORD 2019-038

4 **AN ORDINANCE AMENDING TITLE 16, ALCOHOLIC BEVERAGES, OF THE CITY**
5 **OF SOUTH FULTON, GEORGIA, CODE OF ORDINANCES AND FOR OTHER**
6 **PURPOSES.**

7 **(Sponsored by Councilperson Willis)**
8

9 **WHEREAS**, the City of South Fulton ("City") is a municipal corporation duly
10 organized and existing under the laws of the State of Georgia;

11
12 **WHEREAS**, the duly elected governing authority of the City, is the Mayor and
13 Council thereof ("City Council");

14 **WHEREAS**, the Georgia Alcoholic Beverage Code (O.C.G.A. § 3-1-1 et al.)
15 regulates state-wide alcoholic beverage related activities in the State of Georgia;

16 **WHEREAS**, the Mayor and Council wish to adopt alcohol related regulations
17 within the City; and

18 **WHEREAS**, this ordinance is in the best interests of the health and general
19 welfare of the City, its residents and general public.

20 **THE COUNCIL OF THE CITY OF SOUTH FULTON HEREBY ORDAINS** as
21 follows:

22
23 **Section 1:** The City of South Fulton Code of Ordinances, Title 16, Alcohol
24 Beverages, is hereby replaced in its entirety to read as follows:
25

26 **TITLE 16 - ALCOHOLIC BEVERAGES**

27 **CHAPTER I. - IN GENERAL**

28 **Sec. 16-1001. - Purposes.**

29 (a) The purposes of this title shall include, without necessarily being limited to, the
30 following:

31 (b) Compliance with and effectuation of the general state law;

32 (c) Prevention and control of the sale of alcoholic beverages by unfit persons;

33 (d) The protection of schools, homes, churches, parks, and other institutions;

(e) Promotion of appropriate land use and zoning and the effectuation of the city's land use and zoning policies;

(f) Protection of the public health, safety, and welfare.

To the maximum extent possible under state and federal law, the business of selling alcoholic beverages shall under this title be considered to be a privilege to be accorded in conformity with the foregoing and other public policies of the city, rather than a right.

Sec. 16-1002. - Definitions.

(a) Unless a contrary intention is clearly apparent from the context, any term used in this title shall have the same meaning as when used in a comparable provision of the "Georgia Alcoholic Beverage Code," O.C.G.A. §§ 3-1-1—3-12-3, as amended.

(b) As used in this title the singular and the plural shall each include the other, the masculine and feminine shall each include the other, and any verb tense may include any other verb tense.

(c) As used in this title the term "may" is permissive and the term "shall" is mandatory.

(d) Unless a contrary intention is clearly apparent from the context, the following terms used in this title shall have the following meanings:

Alcoholic beverage means and includes all alcohol, distilled spirits, beer, malt beverage, wine or fortified wine.

Alcoholic beverage caterer means any retail dealer licensed pursuant to this title who provides alcohol at authorized events or functions, special events, or special events facilities.

Applicant means person, or group of persons authorized to represent the business making application for the license.

Brewery means any establishment where malt beverages are manufactured.

Brewpub means any eating establishment in which malt beverages are manufactured, subject to the barrel production limitation prescribed in O.C.G.A. § 3-5-36. As used in this paragraph, the term "eating establishment" means an establishment which is licensed to sell distilled spirits, malt beverages, or wines and which derives at least fifty (50) percent of its total annual gross food and beverage sales from the sale of prepared meals or food; provided, however, that when determining the total annual gross food and beverage sales, barrels of malt beverages sold to licensed wholesale dealers, as authorized pursuant to subparagraph (D) of paragraph (2) of O.C.G.A. § 3-5-36, or to the public for consumption off the premises, as authorized pursuant to subparagraph (D) of paragraph (2) and paragraph (4) of O.C.G.A. § 3-5-36, shall not be used.

City means the City of South Fulton and when used in a geographical sense means the territorial limits of the City of South Fulton.

74 *City Council* means the Mayor and Council of South Fulton, Georgia.

75
76 *Distilled spirits* means any alcoholic beverage obtained by distillation or
77 containing more than 24 percent alcohol by volume, as defined in O.C.G.A. § 3-1-60
78 2(9), as amended.
79

80 *Eating establishment* means an establishment which is licensed to sell or
81 otherwise dispense distilled spirits, malt beverages, or wines and which derives at
82 least 50 percent of its total annual gross food and beverage sales from the sale of
83 prepared meals or food.

84 *Farm Winery* means a parcel zoned as an agricultural use where (i) fruit is grown
85 in a producing vinyard, orchard or similar growing area on the premises and with
86 facilities for fermenting and bottling wine on the premises where the owner or
87 lessee manufactures wine or fortified wine that contains not more than 24 percent
88 alcohol by volume; or (ii) purchased from producing vinyard, orchard or similar
89 growing area in the City of South Fulton and with facilities for fermenting and
90 bottling wine on the premises where the owner or lessee manufactures wine or
91 fortified wine that contains not more than 24 percent alcohol by volume.

92 *Food caterer* means any person who prepares food for consumption off the
93 premises.

94 *Golf club* means a golf facility consisting of a clubhouse or a professional golf
95 shop and a regulation or executive length golf course of at least nine holes, as
96 recognized by the United States Golf Association, the Professional Golfers
97 Association of America, and the Georgia State Golf Association.

98
99 *Growler* means a professionally sanitized reusable container not exceeding 64
100 ounces in volume used to transport draft beer for off-premises consumption.

101 *Immediate family of a person* means all persons related to such person by
102 consanguinity or affinity within the first degree, as computed according to the law of
103 Georgia.

104 *Interest* means and includes any pecuniary interest and any ownership interest,
105 whether present or future, whole or partial, legal or beneficial, contingent or vested,
106 direct or indirect, and any right, power, or authority of control.

107 *License* means the authorization by the City to engage in the manufacturing,
108 distribution or sale of alcoholic beverages including for consumption on the premises
109 and by the package.
110

111 *Licensee* means any person, or group of persons holding a license to engage in
112 the manufacturing, distribution or sale of alcoholic beverages including for
113 consumption on the premises or by the package.
114

115 *Malt beverage* means any alcoholic beverage obtained by the fermentation of any
116 infusion or decoction of barley, malt, hops, or any other similar product, or any
117 combination of such products in water, containing not more than fourteen (14)
118 percent alcohol by volume and including ale, porter, brown, stout, lager beer, small
119 beer, and strong beer. The term does not include sake, known as Japanese rice
120 wine.

121
122 *Microbrewery* is the term used in this title to collectively refer to breweries and
123 brewpubs.

124 *Mixed-use development* means a development comprised of any combination
125 of residential, commercial, office, or institutional uses. The uses may be combined
126 in a single structure or in multiple but integrated and related structures. Mixed
127 developments must be zoned MIX (Mixed Use) District or C-1 (Community
128 Business) District.

129
130 *Nightclub* means an establishment having a capacity of at least 100 persons
131 per the City of South Fulton Fire Code, with all booths and tables unobstructed and
132 open to view, dispensing alcoholic beverages and in which music, dancing or
133 entertainment is conducted. All such establishments shall be equipped with air
134 conditioning. The principal business of a nightclub shall be entertaining, and the
135 serving of alcoholic beverages shall be incidental thereto.

136 *Owner* means any person or group of persons having a financial interest in the
137 income of the business. "Owner" also includes any person, corporation or
138 partnership operating a business under a management contract.

139
140 *Package* means a bottle, can, keg barrel, growler or other original consumer
141 container.

142 *Police department* means the City Police Department.

143 *Public entertainment facility* means an arena, stadium, automobile race track,
144 amphitheater, auditorium, theater, civic center, convention center, or similar facility
145 that is primarily designed and used for live artistic, theatrical, cultural, educational,
146 charitable, musical, sporting, nationally sanctioned automobile racing, or
147 entertainment events.

148 *Premises* means the definite closed or partitioned-in locality, whether a room,
149 shop, or building wherein alcoholic beverages are dispensed for consumption on the
150 premises by the drink, or are manufactured, distributed, and/or sold by the package.

151
152 *Private club* means a corporation, or partnership organized and existing under
153 the laws of the state, actively in operation within the City, having at least 100
154 members regularly paying monthly, quarterly, or semiannual dues, organized and

operated exclusively for pleasure, recreation and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any shareholder or member, and owning, hiring or leasing a building or space therein for the reasonable use of its members with suitable kitchen and dining room space and equipment and maintaining and using a sufficient number of employees for cooking, preparing and serving meals for its members and guests; provided, that no member or officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the sale of alcoholic beverages to the club or its members or guests beyond a fixed salary.

Private residence means a house or dwelling wherein not less than one or more than two families customarily reside and does not include a mobile home, an apartment house having facilities for housing more than two families, a boardinghouse or rooming house where there are five or more boarders or roomers, any residence which has been unoccupied for a period of six consecutive months immediately prior to the filing of any application for license, or any residence in a nonconforming use in a commercial zone.

Police Chief means the Chief of Police of the City.

Registered agent means that individual, who is a resident of Fulton County, Georgia and at least 21 years of age, required to be designated by a licensee to receive any process, notice, or demand required or permitted by law or under this title to be served upon a licensee or owner.

Retail means the sale of alcoholic beverages in unbroken packages only to consumers and not for resale.

Special event means an occurrence taking place somewhere other than on a licensed premises.

Special event facility means a facility used for monetary consideration on a rental, fee, percentage, or similar basis, used primarily for special occasions, including but not limited to: receptions, meetings, banquets, conventions, parties, catered events, or similar gatherings.

Wholesaler means any person, firm, or corporation which sells alcoholic beverages to other wholesalers, to retail dealers who sell by the package, or to retail dealers who hold licenses to sell only on the premises by the drink.

Wine means any alcoholic beverage containing not more than twenty-four (24) percent alcohol by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. The term includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products. The term does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at

that point in the manufacturing process when it conforms to the definition of wine contained in this code section.

CHAPTER 2. - LICENSING

Sec. 16-2001. - License required.

- (a) It shall be unlawful for any person to sell, offer for sale, or otherwise dispense any alcoholic beverages within the city except under a valid license issued under this title and in compliance with the provisions of this title.
- (b) All licenses issued pursuant to this title shall have printed on the front: "This license is a mere privilege subject to being revoked and annulled and is subject to the laws of Georgia and the existing and any further ordinances of the City of South Fulton."
- (c) The applicant for a license or permit, for which provision is made in this title, shall be subject to all state laws and regulations and to all city ordinances and regulations dealing with general licensing and consumption on the premises of alcoholic beverages, except as may be otherwise specifically provided in this title.

Sec. 16-2002. - Retail package licenses.

Applicants may apply for one or more of the following type retail licenses:

- (1) *Package malt beverage license.* Retail sale of malt beverages in the original package.
- (2) *Package wine license.* Retail sale of wine in the original package.
- (3) *Package distilled spirits license.* Retail sale of distilled spirits in the original package.

This application shall be accompanied by the requisite fee in an amount as set by resolution of the City Council, which amount shall remain in effect until modified or amended by subsequent resolution adopted by the City Council.

Sec. 16-2003. - Retail consumption on the premises licenses.

Following are the classes of retail consumption on the premises licenses that are available. Unless otherwise specifically provided in this title, retail consumption on the premises licenses are available only to eating establishments. One or more of the following type retail licenses:

- (a) Consumption on the premises of malt beverages license: retail sale of malt beverages by the drink, bottle or can.
- (b) Consumption on the premises of wine license: retail sale of wine by the drink or bottle.

(c) Consumption on the premises of distilled spirits license: retail sale of distilled spirits by the drink.

(d) Brewpub.

The application shall be accompanied by the requisite fee in an amount as set by resolution of the city council, which amount shall remain in effect until modified or amended by subsequent resolution adopted by the city council. Service from more than one bar at a licensed location may be made upon payment of an additional fee per bar, as set by resolution of the city council. No additional fee shall be charged for portable bars or service bars accessible only to employees.

Sec. 16-2003. - Wholesale licenses.

(a) Any wholesale dealer in alcoholic beverages who is licensed by the state and who does not have a place of business in the city shall be granted a license to distribute such beverages in the city upon application for such license to the police department, submittal of an annual renewal packet, and a statement that he understands the alcoholic beverage rules and regulations of the city and the conditions under which retail licenses are issued. Distributors whose principal place of business is a location other than the city shall pay a registration fee of \$100.00 as authorized by O.C.G.A. § 3-5-43 (or such fee as may be authorized by any future amendment or revision thereto).

(b) Any wholesale dealer in alcoholic beverages who is licensed by the state and who has a place of business in the city shall procure a license under the same provisions applicable to retail licensees. The application for a resident wholesale dealer's license shall be accompanied by the requisite fee in an amount as set by resolution of the City Council, which amount shall remain in effect until modified or amended by subsequent resolution adopted by the City Council.

Sec. 16-2004. - Alcoholic beverage caterers.

(a) *License Requirements—Resident Caterers.*

(1) Any alcoholic beverage retailer possessing a valid license from the City of South Fulton to sell malt beverages, wine or distilled spirits by the drink at a fixed location within the city may apply for an off-premises license that authorizes sales at authorized catered event(s) or function(s).

(2) Off-premises catering license/permit as authorized herein may be issued on an annual or per event basis. The fee for each such license shall be set by council and approved by resolution.

(3) It shall be unlawful for any person to engage in, carry on or conduct the sale or distribution of alcoholic beverages off-premises and in connection with a catered event or function without first having obtained a license as provided herein.

- (b) *Permit Requirements—Nonresident Caterers.* Entities within the City that wish to host a special event using an alcoholic beverage caterer from another jurisdiction shall obtain an alcohol special event application from the police department. The application for the special event permit shall include but not be limited to:
- (1) The name of the nonresident alcoholic beverage caterer desired;
 - (2) A copy of the alcoholic beverage license and catering license/permit issued by the jurisdiction in which the business is located;
 - (3) The quantity of alcoholic beverages to be transported from the licensee's primary location to the location of the authorized catered event(s) or functions(s).
 - (4) The original event permit shall be kept in the vehicle transporting the alcoholic beverages to the catered event(s) or function(s).
 - (5) It shall be unlawful for a licensed alcoholic beverage caterer to distribute or sell alcoholic beverages off-premises except as authorized by the event permit.
- (c) *[Limitation of License.]* A licensed alcoholic beverage caterer may sell only that which is authorized by his alcoholic beverage license. For example, if the alcoholic beverage caterer possesses a valid license to sell malt beverages, he may sell only malt beverages at the authorized catered event or function.
- (d) *Sunday Sales.* An alcoholic beverage caterer wishing to cater an event or function on Sunday must comply with the requirements of state law with respect to the service of alcoholic beverages on Sunday.

Sec. 16-2005. – Special Event Permits

Alcohol special event permits may be issued to nonprofit organizations or for-profit organizations. The fee for alcohol special event permits shall be according to a fee schedule adopted by the City Council. Such a permit shall authorize sale by the drink for on-premises consumption or sell wine for off-premises consumption. The application for an alcohol special event permit must be obtained from and filed with the police department at least 45 days prior to the date of the special event. An alcohol special event permit may be immediately revoked by the Chief of Police in an emergency situation in which continued operation of the event by the licensee/permit holder endangers the health, welfare or safety of the public.

(1) Special Event Nonprofit:

- (a) As used in this section, the term "bona fide nonprofit civic organization" means an entity which is exempt from federal income tax pursuant to the provisions of 26 U.S.C. Sections 501(c), 501(d), or 501(e).
- (b) To be eligible to apply for a nonprofit alcohol special event permit to sell alcoholic beverages at an authorized event, a bona fide nonprofit civic organization must be the applicant; a nonprofit authorization letter must be produced; any required city

special event permit must be obtained; and the authorized event for which the city special event permit is issued must be associated with and benefit the cause of a charitable or civic organization.

(c) Pursuant to state law, a nonprofit alcohol special event permit shall authorize the organization to sell alcoholic beverages for consumption only on the premises for a period not to exceed three days, subject to all laws and ordinances regulating the time for selling such beverages; the alcohol special event permit shall be valid only for the place specified in the permit; and no more than six such permits may be issued to the applicant organization in any one calendar year.

(d) Each applicant for such a nonprofit alcohol special event permit shall submit an application on forms provided by the police department and be accompanied by a nonrefundable fee in an amount as set by resolution of the City Council, which amount shall remain in effect until modified or amended by subsequent resolution adopted by the City Council.

(e) Nothing in this section shall be construed to waive or appeal any other requirements ordained under this Code.

(f) The licensee of a nonprofit special event permit shall supervise all aspects of the special event pertaining to the handling and storage of alcoholic beverages and the distribution of alcoholic beverages to consumers. The permit holder shall be responsible for compliance with all aspects of this article and state law, and liable for infractions thereof.

(g) Nonprofit alcohol special event permits will be approved by the Chief of Police or his designee.

(2) Special Event for Profit:

(a) As used in this section, the term "for profit" means an organization that operates to make a profit.

(b) To be eligible to apply for a for-profit alcohol special event to sell alcoholic beverages at an authorized event, the applicant must represent a business, corporation, partnership or LLC and provide a copy of any city special event permit required for such event. For-profit alcohol special event permits will not be issued to individuals.

(c) Pursuant to state law, a for-profit alcohol special event permit shall authorize the organization to sell alcoholic beverages for consumption only on the premises for a period not to exceed 10 days, subject to all laws and ordinances regulating the time for selling such beverages; the for-profit alcohol special event permit shall be valid only for the place specified in the permit; and no more than six such permits may be issued to the applicant organization in any one calendar year.

(d) Each applicant for such for-profit alcohol special event permit shall submit an application on forms provided by the police department and be accompanied by a nonrefundable fee in an amount as set by resolution of the City Council, which

amount shall remain in effect until modified or amended by subsequent resolution adopted by the City Council.

(h) Nothing in this section shall be construed to waive or appeal any other requirements ordained under this Code.

(i) The permit holder of a for-profit alcohol special event permit shall supervise all aspects of the special event pertaining to the handling and storage of alcoholic beverages and the distribution of alcoholic beverages to consumers. The permit holder shall be responsible for compliance with all aspects of this article and state law, and liable for infractions thereof.

(j) For-profit alcohol special event permits will be approved by the Chief of Police or his designee.

(3) City Sponsored Events.

Subject to compliance with all state law requirements and oversight by the police chief, the provisions of title shall not apply to city sponsored events and city councilmember sponsored town halls.

Sec. 16-2006. - Growlers license.

(a) The retail sale of growlers is authorized for establishments licensed pursuant to this title.

(b) A growler license may be obtained only by establishments engaged in the retail sale of growlers.

(c) In addition to the retail sale of growlers, a growler licensee is permitted to apply for licenses to engage in the retail sale of beer and/or wine by the package and by the glass for consumption on premises. The obtaining of a license for the on premise consumption of beer and/or wine by the glass shall not authorize consumption from growlers on the premises. After a growler is filled at the licensed premises, it must be securely sealed and removed from the premises in its original condition and cannot be opened or consumed on the premises.

(d) Growlers may only be filled with beer or wine from kegs or barrels procured by the licensee from a duly licensed wholesaler.

(e) Only professionally sanitized and sealed growlers may be filled and made available for retail sale.

(f) A growler licensee shall be authorized to offer samples of draft beer or wine to patrons over the age of 21.

(g) Growler licensees and employee thereof shall be permitted to taste draft beer and wine at the licensed growler premises for quality control or educational purposes only. At no time however, shall a growler licensee and/or employee become intoxicated at the licensed premises.

(h) No food purchased at an establishment possessing a growler license may be consumed on premises.

(i) No screen, partition or thing which prevents a clear view into the interior of a growler store from the street, nor any booth within, shall be permitted.

Sec. 16-2007. - Farm winery license.

(a) A Farm Winery license may be obtained by Farms operating as a Farm Winery as defined by this title.

(b) A Farm Winery licensee, or employee thereof, shall be permitted a limited exception under this title to taste wines produced on the premises for quality control and educational purposes only. At no time during hours or commercial operation however, shall a Farm Winery licensee, or employee thereof, become intoxicated at the licensed premises.

(c) State regulations relating to the manufacture, sales and distribution of wine, as revised from time to time, promulgated by the state revenue department, are hereby incorporated into and made a part of this title as if fully set out in this section.

Sec. 16-2008. – Other provisions applicable to farm wineries only.

(a) A Farm Winery licensee shall be authorized to provide guided tours of said winery, during which a “free tasting” of wine may be conducted by the Farm Winery. Said tours and tastings shall be permitted in accordance with the Official Code of Georgia, as amended from time to time.

(b) No “free tasting” of wine shall be permitted between the hours of 12:00 a.m. and 8:00 a.m. any day of the week. In addition, no pouring or tasting of wine shall be permitted on Sundays before 11 a.m. and after 11:30 p.m., or on any other days or times prohibited by state law.

(c) All wine provided at the “free tasting” shall be served by a state licensed representative of the winery and shall be wine produced on-site by said winery.

(d) The licensed Farm Winery may elect to provide non-alcoholic food or beverages at no charge to customers or tour-attendees, either directly or indirectly.

(e) No person who is a participant in an educational or promotional tour may bring alcoholic beverages obtained off the premises of the licensed Farm Winery to said winery under any circumstances.

(f) Souvenirs may be provided by a licensed Farm Winery, including souvenir containers that may be used in “free tastings” sponsored by the Farm Winery, in compliance with State law, as amended from time to time.

(g) Except as set forth otherwise in this section, a microbrewery licensee operating a Farm Winery shall be subject to all requirements of this title.

Sec. 16-2009. - Microbrewery license, regulations generally.

The following regulations shall apply to licensed microbrewery establishments:

- (a) A microbrewery license may be obtained only by establishments operating as a brewery or a brewpub.
- (b) A microbrewery licensee, or employee thereof, shall be permitted a limited exception under this title to taste draft beer and wine at the licensed premises for quality control or educational purposes only. At no time however, shall a microbrewer licensee and/or employee become intoxicated at the licensed premises.
- (c) An individual applying for a microbrewery license shall indicate on their application whether he or she intends to open and operate a brewery or brewpub.
- (d) All operations by a microbrewery shall be conducted within an enclosed building.
- (e) No screen, partition or thing which prevents a clear view into the interior of a microbrewery from the street, nor any booth within, shall be permitted.
- (f) The state regulations relating to the manufacture, sale, and distribution of beer, as revised from time to time, promulgated by the state revenue department, are hereby incorporated into and made a part of this title as if fully set out in this section.

Sec. 16-2010. - Provisions applicable to breweries only.

- (a) A microbrewery licensee operating a brewery shall be authorized to provide guided tours of said brewery, during which a "free tasting" of malt beverages or beer may be conducted by the brewery. Said tours and tastings shall be permitted in accordance with the Official Code of Georgia, as amended from time to time.
- (b) No "free tasting" of beer or malt beverages shall be permitted between the hours of 12:00 a.m. and 8:00 a.m. any day of the week. In addition, no pouring or tasting of beer or malt beverages shall be permitted on Sundays before 11 a.m. and after 11:30 p.m., or on any other days or times prohibited by state law. Promotional or educational tours of a brewery facility shall also only be permitted within these allowed timeframes.
- (c) All malt beverages or beer provided at the "free tasting" shall be served by a state licensed representative of the brewery and shall be malt beverages or beer brewed on-site by said brewery.
- (d) The licensed brewery may elect to provide non-alcoholic food or beverages at no charge to customers or tour-attendees, either directly or indirectly.
- (e) No person who is a participant in an educational or promotional tour may bring alcoholic beverages obtained off the premises of the licensed brewery to said brewery under any circumstances.
- (f) Souvenirs may be provided by a brewery, including souvenir containers that may be used in "free tastings" sponsored by the brewery, in compliance with State law, as amended from time to time.
- (g) Except as set forth in this section, a microbrewery licensee operating a brewery shall be subject to all sections of this chapter.

- 484 (h) Operation of a brewery shall prohibit a microbrewery licensee from obtaining any
485 other category of alcohol beverage license available under this title for the same
486 premises.
487

488 **Sec. 16-2011. - Provisions applicable to brewpubs only.**
489

- 490 (a) A microbrewery licensee operating a brewpub shall be authorized to operate an
491 eating establishment that shall be the sole retail outlet for such malt beverages
492 and that may offer for sale for consumption on the premises any other alcoholic
493 beverages produced by other manufacturers which are authorized for retail sale
494 under this title, provided that such alcoholic beverages are purchased from a
495 licensed wholesaler and, provided further, in addition to malt beverages
496 manufactured on the premises, each brewpub licensee shall offer for sale
497 commercially available canned or bottled malt beverages purchased from a
498 licensed wholesale dealer.
499 (b) Should a microbrewery licensee operating a brewpub offer for sale other
500 alcoholic beverages produced by other manufacturers on the premises of the
501 brewpub, the licensee shall also be required to obtain an on-premises
502 consumption license.
503 (c) The holder of a microbrewery licensee who is operating a brewpub shall not be
504 entitled by virtue of said microbrewery license to sell alcoholic beverages by the
505 package for consumption off the premises. A microbrewery licensee operating a
506 brewpub may, however, apply for an additional license to sell alcoholic
507 beverages at such brewpub by the package for consumption off the premises.
508 (d) A microbrewery licensee operating a brewpub shall pay all state and local license
509 fees and excise taxes applicable to individuals licensed under this title as
510 manufacturers, retailers and, where applicable, wholesale dealers.
511 (e) Except as set forth in this section, a microbrewery licensee operating a brewpub
512 shall be subject to all sections of this chapter.
513

514 A licensee shall (or appoint a registered agent) reside in one of the 13 metropolitan counties
515 (Cherokee, Clayton, Cobb, Coweta, Dekalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry,
516 Paulding and Rockdale) upon whom may be served any process, notice or demand required or
517 permitted by law or under this chapter to be served upon the licensee or owner. The registered
518 agent if appointed must be a resident of at least 21 years of age.

519 **Sec. 16-2012. - Duration of licenses.**

520 All licenses, except as otherwise indicated, issued under this title shall be issued on
521 a calendar year basis, and all licenses shall expire at midnight on December 31 of the
522 year for which they are issued. License fees shall be prorated as follows: New
523 applications issued on and between January 1 and June 30 shall be assessed the full
524 license fee. New applications issued on and between July 1 and December 31 shall be
525 assessed one-half of the license fee.
526

Sec. 16-2013. - Individual, business or association entities; named licensee.

(a) A license issued to an individual shall be issued in the name of the individual. A license issued to a partnership shall be issued in the name of the partnership and in the name of the partner or employee primarily responsible for the operation of the licensed premises who shall be the named licensee. A license issued to a corporation shall be issued in the name of the corporation and in the name of the stockholder, officer of the corporation, or employee primarily responsible for the operation of the licensed premises who shall be the named licensee. A license issued to a purely nonprofit civic, fraternal, patriotic, private, or social club or corporation which is organized and conducted in the City solely as a mutual benefit membership group, shall be issued in the name of the club or corporation and in the name of the individual primarily responsible for the club or corporation's compliance with this title, and the named individual shall be named licensee.

(b) The individual completing and presenting an application for a license, whether for himself, a partnership, a corporation, or a nonprofit organization shall meet the requirements of this title so as to be the named licensee.

(c) Licensees, owners, registered agents and employees will be required to complete City Police Department approved alcohol awareness training every three years.

Sec. 16-2014. - Joint responsibility.

If a partnership, each partner shall be responsible for the actions of the named licensee and the conduct of the licensed business. If a corporation, the corporation, its officers and directors shall be responsible for the actions of the named licensee and the conduct of the licensed business. If a nonprofit organization, its officers, directors, or governing authority shall be responsible for the actions of the named licensee and the conduct of the licensed business. If the licensee designates a registered agent, the licensee shall be responsible for the actions of the named registered agent and the conduct of the licensed business.

Sec. 16-2015. - Eligibility for license.

(a) Every applicant shall, prior to applying for a license, read and familiarize himself with the provisions of this title, and the application shall constitute a certification that applicant has done so. Every licensee shall maintain a copy of this title on the licensed premises and shall instruct each employee engaged in the sale or handling of alcoholic beverages concerning the relevant provisions of this title.

(b) An applicant shall be active in the operation of the licensed business and shall be personally present on the licensed premises sufficiently to assure compliance with the provisions of this title. For purposes, a licensee shall not be considered active unless he is an owner, stockholder, or fulltime employee of the licensed business and is present on the licensed premises a minimum of ten hours per week.

- (c) A licensee must be of good moral character and a citizen of the United States or an alien lawfully admitted for permanent residence. Any such alien shall have been lawfully admitted for permanent residence for at least one year prior to application.
- (d) In addition to the requirements of subsection (c), a licensee for the retail sale of distilled spirits in the original package must have been a resident of a county or municipality in the state, in which the retail sale of distilled spirits in the original package is legal, for one year immediately preceding the filing of the application for such license.
- (e) No person, including members of a retail dealer licensee's immediate family, shall be issued, nor shall have a beneficial interest in, more than two package distilled spirits licenses issued in this state.
- (f) A licensee shall not have been convicted within the ten years preceding his application of any felony, involving moral turpitude, any sexually related crime, illegal possession or sale of controlled substances, illegal possession or sale of alcoholic beverages, or any criminal offense relating to taxes or gambling. A licensee shall not have more than one conviction within the ten years preceding his application of any misdemeanor criminal offense related to alcoholic beverages including, but not limited to, illegal possession, sale, or use of alcoholic beverages, or more than one conviction for any misdemeanor criminal offense relating to the illegal possession, sale, or use of any controlled substance. This subsection shall apply with respect to the laws of this state, other states, the United States, and other countries. A guilty plea, plea of nolo contendere or the forfeiture of a bond shall be considered a conviction for purposes of this subsection. Sentencing as first offender status shall not be considered as a conviction if the sentence was successfully completed without any violation of probation and with no adjudication of guilt ever being entered. Any felony or misdemeanor arrest must have a final disposition.
- (g) A licensee shall not have had any alcohol license revoked any license to sell alcoholic beverages issued by any governmental entity, within the three years preceding his application.
- (h) A licensee, or the licensee's appointed agent, shall reside in one of the thirteen (13) metropolitan counties (Cherokee, Clayton, Cobb, Coweta, Dekalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding and Rockdale) for purpose of service and acceptance of any process, notice or demand required or permitted by law or under this chapter to be served upon the licensee and/or owner. The registered agent if appointed must be a resident of at least 21 years of age.

Sec. 16-2016. - Persons prohibited from acquiring license.

It is unlawful for any elected, temporary, or full-time employee or appointed official of the City, or his or her spouse, to hold any license hereunder

Sec. 16-2017. - Alcohol awareness training certification required.

(a) The applicant for a license under this article shall present to the police department current certification of attendance at an approved alcohol awareness training program. Such certification or approved alternative program shall be verified and signed off by the Chief of Police or designee.

(b) If the applicant lacks such training and certification, the applicant shall have 30 days from the date of the granting of the license to complete the training and submit certification to the police department. Upon due cause being shown, the police chief or designee may grant an extension of time, not to exceed 60 days, to complete said training. Failure to timely obtain such certification shall be grounds for revocation of the alcoholic beverage license.

(c) Every applicant to whom an alcohol work permit is issued and every employee who dispenses, sells, serves, takes orders or mixes beverages shall also complete an approved alcohol awareness training program within 30 days of being issued an alcohol work permit or being employed. Each establishment shall maintain an updated list of employees who have completed an approved alcohol awareness training program along with copies of each of the employee's completion certificate and shall produce said list and/or certificates for inspection by the city upon request.

Sec. 16-2018. - Application fees/disposition of fees.

(a) Each application for a license under this title shall be accompanied by a nonrefundable application and background investigation fee in an amount as set by resolution of the City Council, which amount shall remain in effect until modified or amended by subsequent resolution adopted by the City Council. Application and background investigation fees shall be paid at the time the application is filed and shall not be refunded under any circumstances.

(b) If the application is approved by the City and the license issued, no refund will be granted. If the application is denied and the license refused, or if the applicant withdraws his application prior to its submittal to the board of commissioners, the license fee will be refunded.

Sec. 16-2019. - Application; investigation consent.

(a) All applications for licenses shall be submitted to the Chief of Police or designee on forms provided by the police department. All applications shall contain a full and complete sworn and notarized personal statement by each applicant and all other material facts as determined by the police chief or designee to be relevant to the requirements of this title and further shall include, but not be limited to:

(1) If a partnership, the names and residence address of the partners and a copy of the partnership agreement;

(2) If a corporation, the names of the officers, the name of the manager, and the names of all shareholders holding more than twenty percent of any class of corporate stock and a copy of the articles of incorporation; and

(3) The name of any other entity having a financial interest in the establishment for which a license is sought.

(b) Each applicant/licensee shall consent to and authorize a fingerprint analysis and investigation.

(c) The application form shall be accompanied by a copy of the lease to the premises, or proof of ownership of the premises, or proof of other authorization for use of the premises.

(d) Each applicant/licensee authorize the city and its agents to secure from any court, law enforcement agency, or other public agency his criminal and civil history and to use such information in determining whether the license applied for shall be issued. Each applicant further authorizes the city and its agents to use such information in any public hearing with respect to the license applied for, either before or after the issuance of the license. Each applicant waives any right that he would otherwise have to preclude the city or its agents from obtaining and using such information to consider the application, and each applicant further waives any liability of the city or its agents for obtaining and using such information to consider the application.

(e) Separate applications must be made for each location, and separate licenses must be issued for each location.

(f) The location listed in the application will pass all required applicable inspections of the location including but not limited to, Health, Fire, Zoning, Board of Education, and Code Enforcement.

Sec. 16-2020. - Procedure for consideration of application; temporary licenses.

(a) All applications filed with the police department must be noted with the date and exact time of filing, and such applications must be presented, heard and considered by City Council in order of their filing, unless circumstances during the application process causes delays.

(b) The police department shall review the application and send a copy to all affected departments of the City Government to determine compliance with City regulations and laws. Each department notified will submit a report within 15 business days to the police chief, or his designee. If no report is received, it will also be concluded that there is no objection. At a minimum, the police department will investigate the criminal history of the applicant prior to making recommendation to the City Council to grant or deny the application.

(c) Notice of such application by advertisement in the form prescribed by the police department will be published by the police department at least two times on different days not less than ten days prior to the date of consideration by the City in one of the newspapers published in the City at least six days a week, circulated in the locality of the proposed business, which notice will contain a particular description of the location or of the street number of the proposed alcoholic beverage business

and give the name of the owner, and, if a partnership, the name of the partners, and if a corporation, the name of the president and secretary and treasurer of such corporation. The applicant must pay the cost of said advertisement. In every case of application hereafter made for a license for consumption on the premises of alcoholic beverages in the City, in addition to other advertisement required by law, the applicant must, at his expense, post on the premises where the business of manufacture or sale is to be conducted, continuously for a period of not less than ten days prior to consideration of the application by the City, a notice of the pending application, meeting the following minimum specifications: This notice must be painted or printed in black letters three inches or more in height, against a white background, on a board or metal sign, and having a surface of not less than 12 square feet, and must be placed with the foot or bottom of the sign not more than three feet from the ground on the most conspicuous part of the premises, facing the most frequently traveled road, street or highway abutting same, and not more than ten feet therefrom. The sign must state clearly the nature and purpose of the application, the date and hour and place of hearing, and the name of the person, partnership, firm, or corporation, as owner, making the application.

(d) Upon receiving any and all reports from City departments and completing its investigation, the police chief will make a recommendation to the City Council to grant or deny the application.

(e) During the process of considering the application pursuant to section 16-2013, a temporary license for consumption on the premises of malt beverages, wine and/or distilled spirits or package malt beverage and/or wine license may be issued by the City Manager or designee for a period of up to 60 days provided the Chief of Police or designee is satisfied that the applicant substantially complies with the provisions of the applicable ordinances and meets required qualifications and the denial of a temporary license would create undue hardship upon the applicant, such as the closing of an existing business or delaying of the opening of a new business. The applicant shall sign an acknowledgment that the temporary license is a mere accommodation and may be revoked, with or without cause, by the Chief of Police or designee at any time. The Chief of Police is also authorized to extend the period of the temporary license up to an additional 60 days if, at least three business days prior to the expiration of the temporary license, or any extension thereof, the applicant requests, and explains why, an extension is needed, and the Chief of Police finds the factual circumstances surrounding the request to support the granting of an extension. Should an applicant have reason to seek an extension beyond the additional 60 days and if the Chief of Police finds the factual circumstances surrounding the additional extension request to support the granting, then the Chief of Police shall present the request to council at the next regular session of council.

(f) The fee for issuance of a temporary license is in addition to the regular license fees and shall be set by resolution of the City Council, and this fee amount shall remain in effect until modified or amended by subsequent resolution adopted by the City Council.

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736 **Sec. 16-2021. – Denial of application.**

- 737 (a) After a hearing, should the City Council deny an application, written notice of the
738 denial shall be provided to the applicant by the Chief of Police or designee, shall set
739 forth the reason for the denial, and advise the applicant of the right to appeal.
- 740 (b) Any decision by the City Council denying an application shall be final unless the
741 applicant applies to the Superior Court of Fulton County by filing a petition for writ of
742 certiorari as allowed by law.
- 743 (c) In all instances in which an application is denied, the applicant may not reapply for
744 a license for at least one year from the final date of the denial.
- 745 (d) Any license application made pursuant to this title may be withdrawn by the
746 applicant at any time. If the application is withdrawn before the license is issued,
747 any sums deposited as license fees shall be refunded. After issuance of the license,
748 no refunds shall be made. No refunds however, shall be made under any
749 circumstances for background investigation and administrative expenses required to
750 be paid in this title.
- 751 (e) Previous alcohol license suspensions and revocations by the applicant within three
752 years of the date of the application will automatically be grounds for denial.

753 **Sec. 16-2022. - Transferability of license.**

- 754 (a) Except as provided in this section, no license shall be transferable to any other
755 person or location. All applications seeking a transfer of a license in any respect
756 shall make a new application upon forms provided by the police department and
757 shall be accompanied by a nonrefundable application and background fee in an
758 amount as set by resolution of the City Council, which amount shall remain in effect
759 until modified or amended by subsequent resolution adopted by the City Council.
- 760 (b) If a change in ownership, a new application and the issuance of a new license will
761 apply; however, no new distance requirements will apply if the location qualified
762 for the original license.
- 763 (c) If a licensee seeks to move his place of business from the licensed premises to
764 another place within the city, application shall be made as for an original license,
765 however a new license fee shall not be required for the remainder of the license
766 year.
- 767 (d) In the case of death of an owner of a license, no sale of alcoholic beverages shall
768 be allowed until such time as a personal representative of the estate, appointed by
769 a probate court of competent jurisdiction, shall apply to the police department for
770 authorization. The establishment shall then be allowed to continue to operate for a
771 period of 60 days from the date of death, until expiration of the license, or until the
772 approval of a new license, whichever shall first occur.

- (e) In the circumstances described in subsections (a) through (d), the license may be revoked if the Chief of Police determines that the change results in a failure to meet requirements of this title.

Sec. 16-2023. - Sale or disposition of licensed business; temporary license.

- (a) If any licensee withdraws from, sells, or otherwise transfers the licensee's interest in the licensed business, the licensee shall immediately notify the Chief of Police or designee.
- (b) In the case of such a withdrawal, transfer, or sale, the Chief of Police or designee may issue a temporary license as provided in section 16-2014 to the successor in interest, if the successor in interest has properly completed an application and paid the appropriate fee. The temporary license shall be valid for up to 60 days or until the application for a permanent license is granted or denied by the City Council, which ever first occurs.

Sec. 16-2024. - License renewal.

- (a) An application for renewal shall be submitted to the Chief of Police or designee on forms provided by the police department, sworn and notarized by the named licensee, stating that there have been no changes in any of the information contained in the original application. If there have been any substantive changes, the application for renewal shall be in the same form as an original application.
- (b) An application for renewal shall be filed by November 15 and shall be accompanied by the requisite license and application fees in the amount as set by resolution of the City Council, which amount shall remain in effect until modified or amended by subsequent resolution adopted by the City Council.
- (c) Renewal applications and payments not received by November 15 shall incur a late fee. Renewal applications and payments received between November 16 and December 15 are subject to a late fee of ten percent of the annual license fee. Businesses failing to apply for renewal of their licenses by December 15 must reapply for and complete a new license.
- (d) Within 60 days of the filing of a renewal application with the city, the Chief of Police or designee shall approve or deny said application. Should the renewal application be neither approved nor denied within 60 days, the renewal is deemed approved.
- (e) As part of the renewal process, the Police Department will review the frequency of calls for police service or for police intervention to the licensed premises or the proposed licensed premises, during the 12 months immediately preceding the date of application, taking into consideration the severity of such incidents; or the frequency of calls for police service or for police intervention around such premises, if it is demonstrated that the criminal activity around the licensed premises had

some connection with the premises or the owner(s) or employees of the premises and/or the criminal activity occurred within 100 feet of the premises. Based on its review, the Police Department may recommend to deny renewal of the license. The denial of a renewal will be in accordance section 16-2015 of this ordinance.

Sec. 16-2025. - Notice.

Except as may otherwise be specifically provided in this title, any required notice may be delivered by hand or posted by certified and first-class mail, in which event delivery shall be deemed to take place on the third day following the date of deposit in the United States mail.

Sec. 16-2026. - Collection of sums due.

As to any failure to pay any sum due for fees or taxes under this title, the city may issue an execution against the licensee and his property for the amount of the delinquent fee or tax in addition to any other remedies the city may have.

Sec. 16-2027. - Display of license.

Each license issued under this title shall at all times be kept in the public area plainly exposed to view upon the licensed premises. The establishment shall also post a copy of the state issued alcohol license in the public area plainly exposed to view.

Sec. 16-2028. - General penalty.

Except as may otherwise be provided in this title, any person who violates this title may, upon conviction, be punished as allowed by law.

CHAPTER 3 - SUSPENSION OR REVOCATION OF LICENSE; HEARING

Sec. 16-3001. - Suspension or revocation of license.

(a) A license may be suspended or revoked by the City Council for any violation of this title; for any violation of state laws and regulations relating to alcoholic beverages; for any material misrepresentation or omission in the application for the license; or if the licensee or the licensed business ceases to meet the eligibility requirements for licensure. A license may be immediately suspended, pending a

846 hearing, by the Police Chief in an emergency situation in which continued operation
847 of the premises by the licensee endangers the health, welfare or safety of the public.

848 Grounds to suspend or revoke an alcohol license will include but not be limited to:

849 The following constitute "grounds":

- 850 (1) The selling or serving of alcoholic beverage to any person below the age of 21
851 years; or permitting the entrance of anyone under 21 years of age in violation of
852 this title; or failure to post a sign pursuant to this title.
- 853 (a) A conviction or plea of guilty or plea of nolo contendere by the applicant or
854 licensee to any crime involving moral turpitude, lottery, or illegal possession
855 or sale of narcotics or alcoholic beverages or possession or receiving of
856 stolen property within a period of five years immediately prior to the filing of
857 the application.
- 858 (b) A conviction or plea of guilty or plea of nolo contendere by any applicant or
859 licensee or any person or person in partnership with said applicant/licensee
860 or officer of a corporation, as owner or operator of the licensed premises, to
861 a crime involving moral turpitude, or the violation of any of the laws
862 regulating the sale of narcotics, alcoholic beverages, or the lottery laws of
863 this state, or possession or receiving of stolen property, after a license has
864 been granted.
- 865 (2) The violation by the applicant/licensee or licensee's employees of any state
866 law or regulation governing the manufacture, sale, distribution or transportation of
867 alcoholic beverages.
- 868 (3) Permitting the solicitation of patrons on the licensed premises for prostitution
869 or any other unlawful act where the licensee or the licensee's employee or agent
870 knew or should have known of such conduct.
- 871 (4) The selling or serving of any alcoholic beverage to any person that the
872 licensee or the licensee's employee or agent knew or should have known to be in
873 a state of intoxication.
- 874 (5) The failure to furnish any and all data, information and records related to the
875 operation of licensed establishments, when such has been requested or is
876 required by the City Police Department or the City Treasurer.
- 877 (6) Providing untrue or misleading information contained in or material omission
878 left out of an original, renewal or transfer application for a license.
- 879 (7) The failure to maintain any and all of the general qualifications applicable to
880 the initial issuance of a license as set forth in this title.
- 881 (8) Disposing of any interests in the business by the licensee without reporting
882 the same to the City Police Department.
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- (9) Failure by the licensee to adequately supervise and monitor the conduct of the employees, patrons and others on the licensed premises, including but not limited to adjacent parking lots or areas which may be lawfully used by patrons of the licensed establishment, in order to protect the safety and well-being of the general public and of those utilizing the premises.
- (10) The failure of a licensee, whose licensed premises directly abuts a public street, to maintain all property outside the lot and property line and inside the curb line upon the public street, including any sidewalk. Said duty to maintain the above-designated property must be accomplished within a reasonable time after the close of business each day. "Maintain" as used in this subsection means keeping the specified area free of bottles, cups, trash and other debris. "Within a reasonable time" as used in this subsection means within four hours of the close of business.
- (11) The violation by either the licensee, an employee, or anyone acting as an agent for the licensee of the City's noise ordinance if such violation is reasonably related to the operation of the licensed establishment and the licensee knew or should have known of the violation of the noise ordinance.
- (12) The violation of any other law, ordinance or regulation governing the operation of establishments licensed to sell alcoholic beverages or which are reasonably related to the operation of such establishments.
- (13) The failure to report promptly to the police department any violation of law, breach of peace, disturbance or altercation occurring in or adjacent to the licensee's premises.
- (14) Creating, maintaining, or allowing the creation or maintenance of any public or private nuisance, as defined by state law and the City ordinances.
- (15) The failure to pay alcohol excise taxes imposed by city ordinances.
- (16) A high frequency of calls for police service or for police intervention to the licensed premises or the proposed licensed premises, during the 12 months immediately preceding the date of application, taking into consideration the severity of such incidents; or a high frequency of calls for police service or for police intervention around such premises, if it is demonstrated that any criminal activity around the licensed premises had some connection with the premises or the owner(s) or employees of the premises and/or the criminal activity occurred within 100 feet of the premises.
- (17) The provisions of this section apply in all respects to anyone seeking to renew a license and to anyone who holds a license to sell alcoholic beverages in the City.

(18) Whenever the state revokes any license to sell alcoholic beverages, the City license will be automatically revoked. The police department will take the necessary steps to see that signs are removed and that all alcoholic beverage sales cease.

(b) When suspension of a license is permitted under this title, but no specific period of suspension is mandated, the following guidelines shall apply:

(1) First suspension in a 12-month period of time shall not exceed 30 days.

(2) Second suspension in a 12-month period of time shall not exceed 60 days.

(3) Third suspension in a 12-month period of time shall cause revocation of the license and result in the inability of the licensee to obtain a license from the city for a term of three years from the date of revocation.

(c) Prior to the suspension or revocation of a license by the City Council, the police department shall give written notice to the licensee of the time, place, purpose of the hearing, and a statement of the charges upon which the hearing before the City Council shall be held in accordance with subsection (b) of this section. Service of such notice shall be by personal service on the licensee/registered agent. If personal service fails, the notice shall be mailed by certified mail to the licensee/registered agent at the address provided and to the named licensee at the licensed premises. Delivery shall be deemed to take place on the third day following deposit in the United States mail.

Sec. 16-3002. - Hearings.

(a) The City Council shall hear applications for licenses, as well as all matters relating to such licenses unless otherwise addressed in another section of this ordinance. All applications, whether for an original license, renewal license, or otherwise, must be complete in all requirements of law to be scheduled and heard by the City Council.

(b) The City Council shall have the authority to defer a decision and continue hearings to the next regularly scheduled council meeting, when necessary.

(c) Applicants and licensees shall be given written notice of the date, time, place, and purpose when the matter at issue will be heard. The applicant/licensee shall be afforded the opportunity to be heard and present evidence. Ten days' notice shall be deemed reasonable, but a shorter or longer period of notice shall be authorized as the Chief of Police or designee deems the circumstances to justify; provided, however, that the initial hearing is scheduled to take place not later than 45 days from the date the matter comes before the City Manager for scheduling. Service of notice shall be in accordance with section 16-2031(3).

(d) Upon close of the public hearing, the City Council shall reach a decision on the matter before it. The decision of the City Council shall be spread upon and entered

in the City Council minutes and shall be final unless the applicant/licensee applies to the Superior Court of Fulton County by filing a petition for writ of certiorari within 30 days of the decision rendered by the City Council.

CHAPTER 4 - LOCATION OF SALES

Sec. 16-4001. - Distance from churches, schools, etc.

(a) No person may sell or offer to sell:

(1) Any distilled spirits in or within 100 yards of any church building or government owned and operated alcoholic treatment center or within 200 yards of any school building, educational building, school grounds, college campus, or within 200 yards a regular stop as designated by the Board of Education where a school bus for transportation of school children in the public schools of the City or discharge of school children.

(2) Any wine or malt beverages within 100 yards of any school building, school grounds, or college campus; or

(3) Any distilled spirits, wine, or malt beverages within 100 yards of an alcoholic treatment center; or

(4) Any distilled spirits, wine, or malt beverages within 200 feet of a branch of any public library.

(b) No package distilled spirits license shall be issued for any place of business which is located within 500 yards of another licensed package distilled spirits business.

(c) No package license shall be issued for any place of business which is located within 200 feet of a private single-family or two-family dwelling in a zoning district that permits single and/or two-family dwellings; provided, however, this prohibition shall not apply with respect to a private dwelling located in a zoning district in which alcoholic beverage outlets are authorized or which dwelling is on the same street as the premises for which a package license is applied.

(d) No consumption on the premises license may be located within 1,000 feet of a licensed sexually oriented business.

(e) Unless otherwise provided by law, all measurements to determine the distances referred to in this section shall be measured by the most direct route of travel on the ground and shall be measured in the following manner:

(1) In a straight line from the front door of the structure from which beverage alcohol is sold or offered for sale;

(2) To the front door of the building of a church, government-owned treatment center or a retail package store; or

(3) To the nearest property line of the real property being used for school or educational purposes.

No license shall be revoked and no application for a license or renewal shall be denied by reason of the method of measurement set out in this subsection, if such license or license application or renewal application is for premises for which a license was granted prior to the enactment of this chapter in reliance on another method of measurement.

(f) No application for a license shall be approved which does not include, or have attached thereto, a current certificate from a registered surveyor which shows a scale drawing of the premises and the location at which the applicant desires to operate an alcoholic beverage outlet and which shows, with linear foot measurements where appropriate, such location's compliance or noncompliance with the provisions, or a certificate from a registered surveyor which states that the subject alcoholic beverage outlet meets all of the location and distance requirements of this title, and shows such location's compliance or noncompliance with linear foot measurements where appropriate or required. This provision shall not apply where not required subject to subsection (h).

(g) When a license application is for premises not yet constructed or not yet completed, a temporary license may be issued if the application includes the plans for the premises and a surveyor's certificate, as required under subsection, clearly showing that the premises will, when completed, meet the requirements.

(h) If the distance requirements are met at the time a license is issued, the subsequent opening and operation of a church, school or treatment center within the prohibited distance shall not prevent the continuance of an existing license or the issuance of a new license to a subsequent business owner; provided, however, that as to any new license, the prior license must have been lawful and validly issued at the location at any time during the 12 months immediately preceding the application for the new license.

(i) As used in this section, the term "school building" or "educational building" shall apply only to state, county, city or church school buildings and to such buildings at any other schools in which are taught subjects commonly taught in the schools and colleges of this state and which are public schools and private schools as defined in O.C.G.A. § 20-2-690(b). The term "school building" includes only those structures in which instruction is offered. The term "church building" as used in this section shall mean the main structure used by any religious organization for purposes of worship.

Sec. 16-4002. - Sales and consumption on public property.

(a) Except as provided in subsections (b) and (c) below, it shall be unlawful for any person to sell, serve, or otherwise dispense any alcoholic beverage in a street, alley, or parking lot commonly used by the public or in any other public place or on public property.

(b) Private parties and organizations may apply for an alcohol special event permit from the police department to serve, sell, or otherwise dispense alcoholic beverages on property owned or leased by the city, subject to the city having otherwise expressly allowed, by ordinance or resolution or pursuant to its own policies and rules, for the selling or dispensing of alcohol on such property. The issuance or denial of such a permit shall be subject to all other laws and regulations, including those provisions of the city zoning ordinance regarding special event permits, as well as section 16-2007 of this ordinance.

(c) For public events, the city may serve, sell, or otherwise dispense alcoholic beverages on property owned or leased by the city, subject to the city having otherwise expressly allowed, by ordinance or resolution or pursuant to its own policies and rules, for the selling or dispensing of alcohol on such property.

Sec. 16-4003. - Open area and patio sales.

(a) Except as provided in subsection (b), it shall be unlawful for any person to sell, serve, or otherwise dispense alcoholic beverages outside the licensed premises structure.

(b) A consumption licensee may sell, serve, or otherwise dispense alcoholic beverages in a patio/open area type environment if approved by the Chief of Police or designee to do so. To be considered for approval, the patio/open area shall be directly adjacent and contiguous to the licensed premises and must meet the following requirements:

(1) Has the same address of the licensed premises;

(2) Is owned, leased or managed and exclusively controlled by the retail consumption dealer;

(3) Is not public domain nor is the area only nominally under the exclusive control of the retail consumption dealer;

(4) Is served from the same bar or serving location that permanently services the licensed premises;

(5) Partially enclosed by some structure providing for public ingress/egress through the licensed premises main structure and/or one other opening in the enclosure structure. The opening may not exceed 48 inches in width. Where the patio/open area directly exits to a public area, the licensee shall post a sign on the inside of such structure in the following form: "No alcoholic beverages beyond this point." Such sign shall be in uniform letters not less than one inch in height, and shall be no larger than one square foot in size.

(6) The height of such enclosing structure shall be a minimum of three feet above ground level, although it does not have to be solid or restrict visibility into or out of the patio/open area. The structure must be approved by the city's community development and fire departments.

(7) The only additional exit(s) from the patio/open area, not included in this subsection [(b)(5)], are to be through an approved fire exit, not for general public use unless an emergency exists. The fire exit shall sound an alarm when used.

(c) Nothing contained in this section shall prohibit a hotel or motel with a consumption on the premises license from making sales and allowing consumption of alcoholic beverages in ballrooms, meeting rooms, reception rooms, or patio areas, provided such functions are catered in connection with a meeting, conference, convention, or similar type gathering at such hotel or motel.

CHAPTER 5 - BUSINESS REGULATIONS

Sec. 16-5001. - Display of license and warning signs

(a) Each license issued under this title shall at all times be kept in the public area plainly exposed to view upon the licensed premises.

(b) As used in this section, the term "alcoholic energy drinks" shall mean any premixed beverage that combines any alcohol, distilled spirits, beer, malt beverage, wine or fortified wine with caffeine, and other stimulants. Any Licensee engaged in the distribution or sale of alcoholic energy drinks shall post, in a conspicuous place, a sign which clearly reads: "WARNING: Consuming energy drinks that contain alcohol may mask the signs of impairment and INCREASE YOUR RISKS OF INJURY."

(c) In no event shall a sign as required herein be smaller than eight inches wide and eight inches long, nor shall any lettering thereon be less than 0.5 inches in height.

Sec. 16-5002. - Purchase and sales records.

(a) Every licensee shall keep and preserve records of all alcoholic beverages purchased and sold or otherwise dispensed by the licensee. All consumption on the premises licensees shall keep and preserve records of all food and nonalcoholic beverages purchased and sold or otherwise dispensed by them. Such records, more specifically described in subsection (c), shall at all times be open for inspection by the City Manager or designee. These records shall be maintained for a period of at least three years unless the City Manager or designee determines that no such records exist and it is not financially practical based on the net income of the licensee to require the keeping of such records.

(b) If the City Manager or designee deems it advisable to conduct an audit of the records of a licensee, the City Manager or designee shall notify the licensee of the date, time, and place of the audit. The City Manager may designate the city's

1131 finance director or other person to perform the audit, and the licensee shall
1132 cooperate with the audit or be subject to having his license(s) suspended or
1133 revoked.

1134 (c) At the request of the City Manager or designee, the licensee shall make available
1135 the following records required to be kept for at least three years:

- 1136 (1) Monthly income or operating statements;
- 1137 (2) Daily sales receipts showing liquor, beer, wine, and food sales separately (this
1138 requirement does not apply to package beer and wine licensees);
- 1139 (3) Daily cash register receipts such as Z tapes or guest tickets;
- 1140 (4) Monthly state sales and use tax reports; and
- 1141 (5) Federal income tax returns with all Form 1099s.

1142
1143 **Sec. 16-5003. - Sale to, purchase or possession by underage person.**

1144 (a) Except as otherwise provided in this section:

- 1145 (1) No person, directly or through another person, shall furnish, cause to be
1146 furnished, or permit any person in such person's employ to furnish any alcoholic
1147 beverage to any person under 21 years of age.
- 1148 (2) No person under 21 years of age shall purchase or possess any alcoholic
1149 beverage.
- 1150 (3) No person under 21 years of age shall misrepresent such person's age in any
1151 manner whatever for the purpose of obtaining unlawfully any alcoholic
1152 beverage.
- 1153 (4) No person shall act as an agent to purchase or acquire any alcoholic
1154 beverage for or on behalf of a person under 21 years of age.
- 1155 (5) No person under 21 years of age shall misrepresent his identity or use any
1156 false identification for the purpose of purchasing or obtaining any alcoholic
1157 beverage.

1158 (b) The prohibitions contained in subsections (a)(1), (2), and (4) shall not apply with
1159 respect to the sale, purchase, or possession of alcoholic beverages for
1160 consumption:

- 1161 (1) For medical purposes pursuant to a prescription of a physician duly authorized
1162 to practice medicine in this state; or
- 1163 (2) At a religious ceremony.

1164 (c) The prohibitions contained in subsections (a)(1), (2), and (4) shall not apply when
1165 the parent or guardian of the underage person gives the alcoholic beverage to the
1166 underage person and when possession is in the home of the parent or guardian and
1167 such parent or guardian is present.

(d) The prohibition contained in subsection (a)(1) shall not be violated when a person has been furnished with proper identification showing that the person to whom the alcoholic beverage is sold is 21 years of age or older. For purposes of this subsection, the term "proper identification" means any document issued by a governmental agency containing a description of the person, the person's photograph, and the person's date of birth. Proper identification includes, without being limited to, a passport, military identification, driver's license, or an identification card authorized under O.C.G.A., §§ 40-5-100—40-5-104. "Proper identification" shall not include a birth certificate.

(e) This section shall not prohibit employment of a person under 21 years of age in a licensed premises if such employment is expressly authorized under this title.

(f) In any case where a reasonable or prudent person could doubt whether or not the person to whom an alcoholic beverage is to be sold or otherwise furnished is 21 years of age or older, the person selling or otherwise furnishing such alcoholic beverage shall request to see and be furnished with proper identification as provided in subsection (d). The failure to make such request and verification in any case where the person to whom the alcoholic beverage is sold or otherwise furnished is less than 21 years of age may be considered by the trier of fact in determining whether the person selling or otherwise furnishing such alcoholic beverage did so in violation of subsection (a)(1).

(g) In any case where a person selling or otherwise furnishing alcoholic beverages checks for a proper identification, such person shall carefully inspect such identification. If a reasonably prudent person could determine that such identification has been altered and if such person sells or otherwise furnishes alcoholic beverages to the holder of such altered identification, then such may be considered by the trier of fact in determining whether the person selling or otherwise furnishing such alcoholic beverage did so in violation of subsection (a)(1).

(h) For purposes of the prohibitions set forth in this section, a plea of nolo contendere or the forfeiture of bond shall constitute a conviction.

(i) With reference to the prohibitions set forth in this section, if there is a change in a majority of a licensee's owners, partners, or shareholders, the offenses under the old ownership shall not count against the new owners; provided, however, a different corporation, partnership, or other association shall be charged with the offenses of the predecessor if a majority of the owners, partners, or shareholders are the same.

A violation of this section is cause for revocation.

Sec. 16-5004. - Days when sales unlawful.

(a) No licensee shall permit the sale of alcoholic beverages on any day or during any time of day when such sales are prohibited by state law. For example, the sale of alcoholic beverages is permitted on any election day, holidays, and Sundays as limited by O.C.G.A. § 3-3-7 and O.C.G.A. § 3-3-20.

Sec. 16-5005. - Hours of operation.

- (a) Package licensees shall not engage in the sale of alcoholic beverages except between the hours of 8:00 a.m. and 11:45 p.m. Monday through Saturday. Package licensees shall not permit their places of business to be open except between the hours of 8:00 a.m. and 11:45 p.m. Monday through Saturday, except that where the primary business of a malt beverage package licensee or wine package licensee is other than the sale of alcoholic beverages, such restrictive hours shall apply only with respect to the sale of malt beverages or wine.
- (b) Consumption on the premises licensees shall engage in the sale of alcoholic beverages only between the following hours and days of the week:
- (1) Monday through Saturday between the hours of 9:00 a.m. and 2:00 a.m. of the following day.
 - (2) Sunday between the hours of 11:00 a.m. and 2:00 a.m. on Monday in eating establishments or in any licensed establishment that derives at least 50 percent of its total annual gross income from the rental of rooms for overnight lodging.
 - (3) In addition to the other requirements set forth in this section, the licensed premises for the sale of alcoholic beverages shall comply with the following:
 - a. All licensed premises, except for the premises of hotels and country clubs, shall close their premises to the public and clear the premises of patrons within 30 minutes after the time set in this section for discontinuance of the sale of alcoholic beverages on the premises.
 - b. The sale of alcoholic beverages shall not be permitted within 250 feet of any polling place on primary or election days.
 - c. The licensed premises shall offer to its patrons prepared food and meals during all hours it is open.
 - (4) This section shall not apply to private clubs.
- (c) The business hours of wholesale dealers shall be between the hours of 7:00 a.m. and 11:45 p.m. Monday through Saturday. There shall be no sales on Sunday.

Sec. 16-5006. - Prohibited acts, sexual display on licensed premises.

- (a) No licensee shall permit the sale of alcoholic beverages to any person who is in a state of noticeable intoxication or allow persons who are noticeably intoxicated to congregate on licensed premises.
- (b) No licensee shall permit any gambling, betting, lottery, or other device for the hazarding of any money or other thing of value on the licensed premises, except that this prohibition shall not apply with respect to a properly licensed bingo game or the state lottery.

1247 (c) No licensee shall permit on the licensed premises any: disorderly conduct; breach
1248 of the peace; lewd, immoral, or improper entertainment, conduct, or practices; or
1249 noise which is disturbing to the surrounding neighborhood.

1250 (d) No licensee shall use any person, in any capacity, in the sale or service of
1251 alcoholic beverages while such person is unclothed or in such attire, costume or
1252 clothing, as to expose to view any portion of the female breast below the top of the
1253 areola or of any portion of the male or female pubic hair, anus, cleft of the buttocks,
1254 vulva, and genitals.

1255 (e) No licensee shall allow live entertainment where any person appears in the
1256 manner described in subsection (d), or where such persons (or person) perform(s)
1257 acts of or acts which simulate any of the following:

1258 (1) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation,
1259 flagellation, or any sexual act prohibited by law;

1260 (2) The caressing or fondling of the breast, buttocks, anus, or genitals;

1261 (3) The displaying of the male or female pubic hair, anus, vulva, or genitals.

1262 (f) No licensee shall allow the use of artificial devices or inanimate objects to perform,
1263 simulate, or depict any of the prohibited conduct or activities described above in
1264 subsection (e).

1265 (g) No licensee shall allow the holding, promotion, or sponsoring of any contest,
1266 promotion, special night, event, or any other activity where patrons of the licensed
1267 establishment are encouraged or allowed to engage in any of the conduct described
1268 in subsections (d) or (e) above.

1269 (h) No licensee shall allow to be shown, displayed, or exhibited any film, still picture,
1270 electronic reproduction, or image of any act or conduct described above in
1271 subsection (e).

1272
1273 **Sec. 16-5007. - Delivery and storage.**

1274 (a) Alcoholic beverages shall be delivered to and received at licensed premises in the
1275 original container and in a conveyance owned and operated by a state licensed
1276 wholesale dealer (or a licensed common carrier acting for a wholesaler). Alcoholic
1277 beverages shall be sold at retail only on the licensed premises.

1278 (b) A retail licensee shall store alcoholic beverages only on the licensed premises and
1279 at no other place. All stock shall be available at all times for inspection by any
1280 authorized agent of the city. Any alcoholic beverages found in any retail licensee's
1281 stock which were not received from a wholesaler licensed to make deliveries in the
1282 city shall be subject to immediate confiscation.

1283
1284 **Sec. 16-5008. - On-premises consumption unlawful; growlers.**

(a) It shall be unlawful for any person to consume any alcoholic beverages on premises licensed for the sale of alcoholic beverages by the package. It shall be unlawful for any retail package licensee to open or break the package of any alcoholic beverages for a purchaser or to permit the consumption of alcoholic beverages on the licensed premises. This section shall not apply with respect to:

(1) Tastings provided pursuant to an ancillary wine tasting license;

(2) Tastings provided pursuant to an ancillary growler malt beverage tasting license; or

(3) Sales pursuant to a license for consumption on the premises.

(b) Notwithstanding the foregoing prohibition, package malt beverage licensees, who are not also licensed to sell distilled spirits by the package, may fill growlers with draft beer at the licensee's licensed location from kegs lawfully procured by the licensee, subject to the following requirements:

(1) The filled growler must be securely sealed, on premises, with a tamper proof plastic cap;

(2) Either at least 90 percent of the licensee's total gross sales are from the packaged sale of malt beverages and/or wine or the licensee's premises have a minimum of 400 square feet of floor space dedicated to the display of malt beverages offered for sale; and

(3) The licensee complies with all state, federal and local packaging and labeling laws regarding alcoholic beverages.

Each filled growler must be removed from the premises in its securely sealed condition. Except as provided in subsection (a) of this section, consumption on the premises shall be prohibited.

Sec. 16-5009. - Regulation of signs and lighting.

(a) Signs advertising, promoting the use of, or otherwise related to alcoholic beverages may not be placed in exterior windows for view from the public right-of-way.

(b) A lighted parking lot illuminated at an intensity of at least two-foot candles per square foot at 18 inches above the surface.

(c) Window signage that allows a clear and unobstructed view from outside the building and in a normal line of sight of the cash register and sales transaction area.

(d) A convenience store or gas station shall not have window tinting that reduces exterior or interior view in a normal line of sight.

(e) The exterior of each building in which alcoholic beverages are sold for consumption on the premises shall contain sufficient lighting so that all sides of the building and all entrances thereto are clearly visible at all times when the premises are open for business.

Sec. 16-5010. - Condition of premises requirements.

- (a) All licensed premises shall be kept clean and in proper sanitary condition and in full compliance with all regulations governing the condition of premises used for the storage and sale of food for human consumption.
- (b) The local Health Department will regularly inspect such licensed premises to determine that such licensed premises are in compliance with all the City and state health rules and regulations and report any violations to the police department.
- (c) The City Fire Department will regularly inspect the premises to see that they are in compliance with all the City and state fire regulations and report any violation to the police department.
- (d) The City Department of Environment and Community Development may inspect the licensed premises to determine if the premises are in compliance with all technical codes of the City and report any violation to the police department.
- (e) The City Police Department will periodically inspect the premises to determine if the licensed premises are in compliance with this title.

Sec. 16-5011. - Change of ownership, profit distribution report required.

A licensee shall file with the police department a written, sworn report of any of the following changes:

- (1) Any change in any legal relationship between any parties named in the application for the license;
- (2) Any change in the payment of rent for leased premises or any change in the ownership of the licensed business;
- (3) Any change for any purpose in division of net or gross sales of the licensed business; and
- (4) Any change in any material facts contained in the application for the license.

Such report shall be filed within five days after the date the change occurs.

CHAPTER 6 - EMPLOYMENT RESTRICTIONS AND HANDLING REQUIREMENTS

Sec. 16-6001. - Age requirements.

- (a) Except as provided in subsection (d), no wholesale dealer or package licensee shall allow any employee under the age of 18 years to dispense, sell, serve, take orders for, or handle alcoholic beverages.

- (b) No consumption on the premises licensee shall allow any employee under the age of 18 years to dispense, sell, serve, take orders for, or handle alcoholic beverages.
- (c) A licensed alcoholic beverage caterer shall not employ any person under 21 years of age who, in the course of such employment would dispense, serve, sell, or handle alcoholic beverages.
- (d) This section shall not prohibit the employment of persons under the above ages on licensed premises where such persons do not dispense, sell, serve, take orders for, or handle alcoholic beverages.
- (e) This section shall not prohibit persons 16 years of age or older from selling or handling alcoholic beverages in grocery stores or supermarkets. For purposes of this subsection, the term grocery stores or supermarkets shall not include convenience stores.

Sec. 16-6002. - "Handling" not to include bagging and carrying out.

For the purposes of this article, the bagging or carrying out of wine or malt beverages in the original package in the course of employment by a grocery store, convenience store, or similar establishment shall not constitute the handling of alcoholic beverages.

Sec. 16-6003. – Alcohol work permit required.

- (a) An employee alcohol work permit shall be required for:
- (1) Any employee of a consumption on the premises licensee who dispenses, sells, serves, takes orders, mixes beverages, or serves in any managerial position; and
 - (2) Any employee of an alcoholic beverage caterer who is engaged in handling, selling, or serving alcoholic beverages; provided, however, employees whose duties are limited solely to those of busboy or cook or dishwasher shall be excluded.
- (b) No licensee shall employ any person required to have an alcohol work permit until such person has procured such permit.
- (c) Any person required to obtain an alcohol work permit shall apply to the city police department for such permit. Only one alcohol work permit per individual will be issued for employment at any and all establishments within the city. The permit will be valid for a period of one year and shall be renewed on or before its expiration. Persons applying for the permit or renewal shall make themselves available for photographing, fingerprinting, and such other investigation as may be required by

the police department. The holder of an alcohol work permit, during the course of their duties will be required to present said permit upon demand to any law enforcement officer. The fee for an alcohol work permit shall be according to a fee schedule adopted by the City Council and shall remain in effect until modified or amended by the City Council.

(d) Any person required to obtain or renew an alcohol work permit shall complete and file with the city police department the provided application, which shall include, but not be limited to, name; residence address; date of birth; prior arrest record, if any, which shall be used for investigative purposes only; the name of the employer; and the address of the licensed establishment employment location for which the permit is sought.

(e) When a person applies for an alcohol work permit, the chief of police or his designee shall have a complete a background investigation to determine if there is a police record of such person. If the applicant has been convicted of conduct prohibited by this title, issuance of a permit shall be denied.

(f) A new search may be conducted on any person issued an employee alcohol work permit if the Chief of Police receives information which warrants such a new search. If the new search reveals evidence that warrants revocation of the permit, the permit may be revoked.

(g) Should any of the information provided by the individual on the original application, or any renewal, change during the one-year term of an issued alcohol work permit, including, by way of example only, employer, licensed establishment employment address, or residence address, the individual shall promptly notify the city police department of the change and provide the new information. The city police department shall then issue, at no charge to the individual, a new alcohol work permit for the remainder of the one-year term. The Chief of Police or his designee is authorized to conduct a concurrent criminal history check at no charge to the individual.

(h) An alcohol work permit shall not be issued if within a period of five years of the application date, the applicant has been convicted of any felony, any misdemeanor involving moral turpitude, any sexual-related crime, any criminal offense relating to the illegal possession, sale or use of any controlled substance or any criminal offense relating to alcoholic beverages, taxes or gambling, except as otherwise provided herein. An alcohol work permit shall not be issued if within a period of five years of the application date, the applicant has more than one conviction for any

misdemeanor criminal offense relating to alcoholic beverages including, but not limited to, the illegal possession, sale or use of alcoholic beverages, or more than one conviction for any misdemeanor criminal offense relating to the illegal possession, sale or use of any controlled substance. An alcohol work permit shall not be issued if the applicant has not been released from any parole or probation prior to the filing of the application. This subsection shall apply with respect to the laws of this state, other states, the United States, and other countries. A plea of nolo contendere or the forfeiture of a bond shall be considered a conviction for purposes of this subsection. Sentencing as first offender status shall not be considered as a conviction if the sentence was successfully completed without any violation of probation and with no adjudication of guilt ever being entered.

(i) An alcohol work permit shall not be issued if it is determined that the person falsified, concealed, or covered up any information requested by the police department in the application process.

(j) An alcohol work permit issued through administrative error may be revoked by the Chief of Police or designee.

(k) The Chief of Police or designee may revoke an employee's alcohol work permit and demand its return where the employee violates this title.

(l) Any conviction for violation of the provisions of this title or of the state's Alcoholic Beverage Code shall result in the automatic suspension of the alcohol work permit.

(m) It shall be unlawful for an employee whose alcohol work permit has been revoked and upon whom demand for return of the card has been made to refuse to return the card or to alter, conceal, deface, or destroy the card.

(n) When any employee's alcohol work permit is denied or revoked, the Chief of Police or designee shall issue to the applicant or permit holder a letter stating that the person does not meet the requirements of this title and the reason for the denial or revocation. Upon written request made by the employee within 30 days of the date of denial or revocation, the Chief of Police or designee will refer the matter and any evidence the person cares to submit in their behalf to the City Manager for consideration. If the person requests consideration by the City Manager, the entire record will be sent. The City Manager shall consider all matters presented and within 30 days of his receipt of the record, make a decision as to whether the person qualifies for an alcohol work permit under this title. In the event the City Manager denies or revokes the permit, he shall provide written notice of the denial or

1478 revocation to the applicant or employee, which shall set forth the reason for the
1479 denial or revocation.

1480
1481 **Sec. 16-6004. - Licensee to report disciplinary action.**

1482 Any licensee who has any disciplinary action taken against him or any of his
1483 employees who sell, take orders for, deliver, or handle alcoholic beverages by any
1484 governmental authority (municipal, county, state, or federal) shall notify the Chief of
1485 Police or designee of such action within five days of such action. The following shall be
1486 considered to be disciplinary action: any arrest; the issuance of any citation; any
1487 indictment, presentment, or accusation; any conviction, including the acceptance of a
1488 plea of nolo contendere; any penalty imposed by any regulatory agency; and any other
1489 written charge or reprimand against the licensee or any of his employees. The
1490 provisions shall not apply with respect to citations for traffic offenses.

1491
1492 **CHAPTER 7. - REQUIREMENTS FOR CONSUMPTION ON-PREMISES LICENSES**

1493 **Sec. 16-7001. - Eligibility for license.**

- 1494 (a) A consumption on the premises license may be granted only to the establishments
1495 described in this article and subject to the specified conditions.
- 1496 (b) Full service kitchen as used in this article shall mean a kitchen with at least a
1497 three-compartment pot sink, a stove or grill permanently installed, and a refrigerator,
1498 all of which must be approved by the county health and city fire departments.

1499
1500 **Sec. 16-7002. - Hotel and hotel room service.**

- 1501 (a) In order to be eligible for a consumption on the premises license, a hotel must:
- 1502 (1) Be used and held out to the public as a place where food is served and
1503 consumed and sleeping accommodations are offered to guests for adequate
1504 pay;
- 1505 (2) Contain 50 or more rooms used for the sleeping accommodations of guests;
1506 and
- 1507 (b) A hotel may consist of a single building or may consist of two or more buildings
1508 located on the same premises and used in connection with the hotel operation.
- 1509 (c) A facility which is styled as a motel, motor lodge, inn, or other similar appellation
1510 may be licensed as a hotel if it meets the requirements.
- 1511 (d) A hotel may grant permission for the operation of a lounge, restaurant, or supper
1512 club on its premises; such an operation may be granted a consumption on the
1513 premises license if it meets the other applicable requirements of this title.

- 1514 (e) Notwithstanding any other provisions of this title to the contrary, any hotel (as the
1515 term "hotel" is commonly used and without regard to the requirements), inn, or other
1516 establishment which offers overnight accommodations to the public for hire, may
1517 provide "in-room service" of alcoholic beverages if such establishment:
- 1518 (1) Holds a valid city package license or a valid city consumption on the premises
1519 license or both; and
- 1520 (2) Has been authorized to provide "in-room service" by the state revenue
1521 commissioner.
- 1522 (f) For purposes of this title, "in-room service" consists of:
- 1523 (1) The delivery of alcoholic beverages in unbroken packages by an employee of
1524 the hotel to a registered guest's room when such alcoholic beverages have
1525 been ordered by the guest and when the guest shall be billed for the cost of
1526 such alcoholic beverages at the time of delivery and when the sale of such
1527 alcoholic beverages is completed at the time of delivery; and
- 1528 (2) The provision of a cabinet or other facility located in a hotel's guest room
1529 which contains alcoholic beverages and which is provided upon request of the
1530 guest and which is accessible by lock and key only to the guest and for which
1531 the sale of alcoholic beverages contained therein is final at the time requested
1532 except for a credit which may be given to the guest for any unused portion.
- 1533 (g) Except as otherwise provided in this section, in-room service of alcoholic
1534 beverages shall be subject to all restrictions and limitations in this title relative to the
1535 sale of alcoholic beverages. In-room service sales shall be authorized only on such
1536 days and only during such hours as the sale of alcoholic beverages is otherwise
1537 authorized.
- 1538 (h) Distilled spirits sold pursuant to this section shall not be sold in packages
1539 containing less than 50 milliliters each.
- 1540 (i) All alcoholic beverages sold pursuant to this section shall be purchased from a
1541 licensed wholesale dealer and shall be subject to all taxes imposed under this title,
1542 including the excise tax on the retail sale by the drink of alcoholic beverages
1543 containing distilled spirits.

1544

1545 **Sec. 16-7003. - Restaurant.**

1546 In order to be eligible for a consumption on the premises license, a restaurant must:

- 1547 (1) Be used and held out to the public as a place where meals are regularly
1548 served to the public for adequate pay;
- 1549 (2) Contain one or more public dining rooms, with adequate and sanitary full
1550 service kitchen facilities and staff to prepare, cook, and serve suitable food for
1551 its guests;

- (3) Serve at least one meal per day at least five days per week, with the exception of holidays, vacations, and periods of redecoration; and
- (4) Have at least sixty (60) percent of its total food and beverage sales be the sale of food and nonalcoholic beverages consumed on the premises, exclusive of sales from vending machines. For this purpose, if a restaurant makes a minimum charge or cover charge, the amount so charged shall not be counted in computing total food and beverage sales.
- (5) Brewpubs, as defined in section 16-1002 of this ordinance and O.C.G.A. § 3-1-2(3) shall be allowed in eating establishments.

Sec. 16-7004. - Lounge.

- (a) A lounge is a separate room that has a seating capacity, at tables of at least 50 persons and which is:
- (1) Connected with, a part of, and adjacent to a restaurant; or
- (2) Located in a hotel.
- (b) In order to be eligible for a consumption on the premises license, a lounge must be arranged and maintained such that all booths, stools, and tables are open and unobstructed to the view of other customers in the lounge.
- (c) A lounge which is operated on a different floor, or in a separate building, from, or which is not connected or adjacent to, another licensed facility shall be considered a separate establishment from such other licensed facility and shall pay a separate annual license fee.

Sec. 16-7005. - Supper club.

- In order to be eligible for a consumption on the premises license, a supper club must:
- (1) Have a seating capacity, at tables, of at least 100 persons;
- (2) Have adequate and sanitary full service kitchen facilities and staff to prepare, cook, and serve suitable food for its patrons, except that this requirement shall not apply to a supper club which is located in a hotel having separate kitchen facilities of which the supper club makes use;
- (3) Provide a band or other professional entertainment a minimum of 20 days in each calendar month, each and every calendar month of the calendar year, with the exception of holidays, vacations, and periods of redecorating;
- (4) Be arranged and maintained such that all booths and tables are open and unobstructed to the view of other persons in the facility;

- 1588 (5) Serve at least one meal per day at least five days per week, with the
1589 exception of holidays, vacations, and periods of redecoration; and
- 1590 (6) Have as at least 50 percent of its total sales the sale of food and nonalcoholic
1591 beverages consumed on the premises, exclusive of sales from vending
1592 machines; and for this purpose, if a supper club makes a minimum charge or
1593 cover charge, the amount so charged shall not be counted in computing total
1594 sales and shall not be counted as a food or beverage sale.

1595

1596 **Sec. 16-7006. - Private clubs.**

- 1597 (a) In order to be eligible for a consumption on the premises license, a private club
1598 must be a nonprofit association which is organized under the laws of this state and
1599 which:

- 1600 (1) Has been in existence at least one year prior to the filing of its application for a
1601 license;
- 1602 (2) Has at least 75 regular dues-paying members;
- 1603 (3) Is organized and operated exclusively for pleasure, recreation, and other
1604 nonprofit purposes;
- 1605 (4) Owns, hires, or leases a building or space within a building for the reasonable
1606 use of its members, which building or space:
- 1607 a. Has suitable kitchen and dining room space and equipment;
- 1608 b. Is staffed with a sufficient number of employees for cooking, preparing, and
1609 serving meals for its members and guests; and
- 1610 c. Has no member, officer, agent, or employee directly or indirectly receiving
1611 in the form of salary or other compensation any profits from the sale of
1612 alcoholic beverages beyond a fixed salary.

- 1613 (b) For purposes of subsection (a)(4)c., a "fixed salary" means the amount of
1614 compensation paid any member, officer, agent, or employee of a private club as
1615 may be fixed for him by its members at a prior annual meeting or by the governing
1616 body out of the general revenue of the club and shall not include any commission or
1617 any profits from the sale of alcoholic beverages. Tips or gratuities added to the bills
1618 under club regulations shall not be considered profits from the sale of alcoholic
1619 beverages.

- 1620 (c) No alcoholic beverage license shall be granted to a private club organized or
1621 operated primarily for the selling or serving of alcoholic beverages.

- 1622 (d) Veterans' organizations, fraternal organizations, and other nonprofit organizations
1623 currently having tax exempt status under either the United States Internal Revenue
1624 Code or the state income tax law shall not be required to operate a food
1625 establishment serving prepared food; provided, however, any such organization
1626 selling or dispensing alcoholic beverages shall be subject to all ordinance

1627 regulations dealing with general licensing and consumption on the premises
1628 establishments.

1629

1630 **Sec. 16-7007. - Special events facility.**

1631 In order to be eligible for a consumption on the premises license, a special events
1632 facility must:

- 1633 (1) Be available to public or private groups of persons;
- 1634 (2) For monetary consideration on a rental, fee, percentage, or similar basis, be
1635 used primarily for special occasions, including but not limited to, receptions,
1636 meetings, banquets, conventions, parties, catered events, or auditoriums with a
1637 seating capacity less than 5,000; and
- 1638 (3) Be open to or attended by invited or selected guests or paying patrons; or
- 1639 (4) Be a multi-sport complex situated on at least 20 acres and in conformance
1640 with the city's zoning ordinances.

1641 **Sec. 16-7008. - Consumption on premises license for public entertainment**
1642 **facilities.**

1643 A license to sell alcoholic beverages for consumption on the premises may be
1644 issued to the owner and/or operator of a public entertainment facility with a seating
1645 capacity in excess of 5,000 persons, including stadiums, arenas, coliseums,
1646 amphitheaters and auditoriums ("public entertainment facility"). Except as provided in
1647 this section, all applicants and license holders for public entertainment facilities shall
1648 meet all licensing qualifications established pursuant to this article and must comply
1649 with all state statutes governing the sale of alcoholic beverages and all sections of this
1650 article and other city ordinances governing sales. Public entertainment facilities shall be
1651 required to comply with the percentage sales requirements applicable to consumption
1652 on the premise's licensees under this article, but in determining such compliance, the
1653 revenue from the sale of tickets shall be combined with the revenue derived from the
1654 sale of prepared meals or food. In addition, food must be served during any period of
1655 time that alcoholic beverages are served. Alcoholic beverages may be sold during the
1656 hours authorized for other consumption on the premises licensees holding licenses
1657 pursuant to this article, except that Sunday sales shall be limited to the hours of 11:00
1658 a.m. to 11:30 p.m.

1659 **Sec. 16-7009. - Physical requirements of premises.**

1660 All lounge and restaurant areas, including all tables, booths, and other areas where
1661 customers are served and including all passageways for customers, shall be sufficiently
1662 well illuminated so that they may be viewed by those inside the premises. The sale or

1663 dispensing of alcoholic beverages in any back room or side room that is not open to the
1664 general public is prohibited, except that this prohibition shall not apply with respect to:

- 1665 (1) Private parties which have been scheduled in advance;
- 1666 (2) Sales to hotel guests in their hotel rooms;
- 1667 (3) Private clubs; or
- 1668 (4) Special events facilities.

1670 **Sec. 16-7010. - Employees of supper club or lounge not to mingle with customers.**

1671 It shall be unlawful for an employee of a supper club or lounge to dance or sit with
1672 customers on the premises. It shall be unlawful for any customer to purchase food or
1673 drink for an employee of a lounge or supper club on the licensed premises.

1675 **Sec. 16-7011. - Live music and dancing.**

1676 Bands or orchestras and patron dancing shall be permitted at facilities licensed for
1677 consumption on the premises sales only where:

- 1678 (1) Adequate space exists;
- 1679 (2) All fire and safety regulations are met;
- 1680 (3) Prior approval of the Chief of Police and the fire chief has been obtained.

1682 **Sec. 16-7012. - Package sales prohibited.**

1683 It shall be unlawful for any alcoholic beverages to be sold by the package from
1684 premises licensed for consumption on the premises. This section shall not apply with
1685 respect to sales pursuant to a license for sales by the package.

1687 **Sec. 16-7013. - Carry-out of alcoholic beverage unlawful.**

- 1688 (a) All alcoholic beverages sold or otherwise dispensed by consumption on the
1689 premises licensees shall be consumed only on the licensed premises. It shall be
1690 unlawful for any person to remove from the licensed premises any alcoholic
1691 beverages sold for consumption on the premises, and it shall be unlawful for the
1692 licensee to permit any person to remove from the licensed premises any alcoholic
1693 beverages sold for consumption on the premises in any type of container, except as
1694 provided for in subsection (b).

(b) Any restaurant which is licensed to sell alcoholic beverages for consumption on the premises may permit a patron to remove one unsealed bottle of wine per patron for consumption off premises as authorized in O.C.G.A. § 3-6-4.

(c) Each consumption on the premises licensee shall post in a prominent place at each exit from the licensed premises a sign in substantially the following form:

"No alcoholic beverages beyond this point." Such sign shall be in uniform letters not less than one inch in height, and shall be no larger than one square foot in size.

(d) It shall be unlawful for customers to gather outside the licensed premises of a consumption on the premises licensee and consume alcoholic beverages, unless otherwise authorized by this title.

(e) It shall be unlawful for the manager or any employee of a consumption on the premises licensee to allow persons to gather outside the licensed premises and consume alcoholic beverages, unless otherwise authorized by this title.

Sec. 16-7014. - Brown-bag, when "BYOB" is allowed.

It is prohibited for any person to bring in his own alcoholic beverage in any business establishment without regard to whether such establishment is licensed to serve alcoholic beverages except for the following specific exceptions:

(1) This section shall not prohibit any person dining at an eating establishment licensed to sell wine for consumption on the premises from bringing an unopened bottle of wine into said establishment for consumption where such eating establishment has a policy permitting same.

(2) This section shall not prohibit any person who is a patron of a business establishment which provides as its primary business art instruction, sewing and embroidery instruction, or cooking instruction from bringing one unopened bottle of wine into the establishment where: (a) the owners or their agents have a policy permitting a patron to bring an unopened bottle of wine into the business establishment for consumption on the premises by the patron; and (b) the business establishment is licensed as required hereinafter.

(3) This section shall not prohibit any person who is a patron of a business establishment which provides as its primary business art instruction, sewing and embroidery instruction, or cooking instruction from bringing no more than two unopened 16-ounce containers of beer, or the equivalent, into the establishment where: (a) the owners or their agents have a policy permitting a patron to bring an unopened bottle of beer as described into the business establishment for consumption on the premises by the patron; and (b) the retail establishment is licensed as required hereinafter.

(4) Any wine not consumed at a business establishment, as described in subsection (2) of this section, shall be disposed of at the premises and not carried out in an open container, unless the business establishment is able to

1735 reseal and repackage the opened bottle of wine as required by O.C.G.A. § 3-6-
1736 4.

1737 (5) Any beer opened and not consumed at a business establishment, as
1738 described in subsection (3) of this section, shall be disposed of at the premises
1739 and not carried out in an unsealed container.

1740 (6) A business establishment, as described in subsections (2) and (3) of this
1741 section, licensed as required, may have available for its patrons use, either for a
1742 fee or not, glasses and openers for the patrons' use.

1743 (7) A business establishment, as described in subsections (2) and (3) of this
1744 section, shall be a licensed business by the city and meet all application
1745 requirements for a brown bagging beer and wine license and be governed by
1746 the ordinance provisions set forth in section. Further, such a business
1747 establishment so licensed shall not have any employee under the age of 18
1748 working in the establishment and shall have an established closing time no later
1749 than 11:00 p.m.

1750

1751 (8) This section shall not prohibit any public entertainment facility licensed to sell
1752 beer, wine, and distilled spirits for consumption on the premises from allowing
1753 patrons to bring his/her own alcoholic beverages into said facility for
1754 consumption where such public entertainment facility has a policy permitting
1755 same.

1756 (9) All applicable state laws and city ordinances which address the use and
1757 serving of alcoholic beverages shall apply to this section, unless otherwise
1758 specifically provided hereinabove.

1759 (10) For purposes of this section, the term business establishment shall not
1760 include a private hotel room or other similar guest room or a private club.

1761

1762 **Sec. 16-7015. - "Happy hour"**

1763 All happy hour activities shall be conducted in strict compliance with state law.

1764

1765 **Sec. 16-7016. – Ancillary beer and wine tasting license.**

1766 The holder of a package beer and wine license shall be eligible for an ancillary wine,
1767 beer and malt beverage tasting license to provide samples of wine, beer and malt
1768 beverages offered for sale to customers under the conditions set forth in this section.

1769 (a) Wine, beer and malt beverage sampling shall be on limited occasions when a
1770 customer requests a sample of a wine, beer or malt beverage offered for sale

- 1771 within the premises, or in conjunction with education classes and sampling
1772 designed to promote wine, beer and malt beverage appreciation and education.
- 1773 (b) Wine, beer or malt beverage tasting for customers shall be conducted only at a
1774 counter area constituting no more than ten (10) percent of the entire floor area of
1775 the premises.
- 1776 (c) Such sampling for customers shall be limited to no more than one (1) time per
1777 day, on the days of the week authorized by State law to sell beer and wine by the
1778 package, for a period of not to exceed two (2) consecutive hours. Samples shall
1779 not exceed two (2) ounces, and no customer shall consume more than eight (8)
1780 ounces in any two-hour period; and
- 1781 (d) The holder of an ancillary wine, beer and malt beverage tasting license may
1782 conduct educational classes and sampling for classes not more than two (2)
1783 times per week for a period of not to exceed two (2) consecutive hours. All
1784 conditions of sampling set forth in this section shall apply to such classes, except
1785 for the limitation on floor areas where the classes can be conducted.
- 1786 (e) Wine, beer and malt beverage bottles shall be opened, and samples poured only
1787 by an employee who possesses a valid alcohol work permit.
- 1788 (f) No open containers of wine, beer or malt beverage shall be removed from the
1789 licensed premises.
- 1790 (g) Holders of an ancillary wine, beer and malt beverage tasting license shall not
1791 charge for samples or tastings but may accept donations for a charitable
1792 organization of their choice.
- 1793 (h) Such sampling and tasting is permitted within the enclosed portion of the
1794 premises only.
- 1795 (i) The fees for an ancillary wine, beer and malt beverage tasting license shall be
1796 according to fee schedule adopted by City Council.

1797
1798 **CHAPTER 8. - EXCISE TAX**

1799
1800 **DIVISION 1 – GENERALLY.**

1801
1802 **Sec. 16-8001. - Definitions.**

1803
1804 For the purpose of this division, the following words, terms and phrases are defined
1805 as follows:

1806
1807 *Agent* means that person designated by licensee in his application for a permit to sell
1808 alcoholic beverages by the drink in the City.

1809
1810 *Alcoholic beverage* means any beverage containing alcohol obtained by distillation
1811 including rum, whiskey, gin, and other spirituous liquors by whatever name called, but
1812 not including malt beverages, fermented wines, or fortified wines.

1813
1814 *Drink* means any alcoholic beverages served for consumption on the premises
1815 which may or may not be diluted by any other liquid.

1816
1817 *Licensee* means any person who holds a permit from the City to sell alcoholic
1818 beverages by the drink.

1819
1820 *Monthly period* means the calendar month of the year.

1821
1822 *Person* means an individual, firm, partnership, joint venture, association, social club,
1823 fraternal organization, joint stock company, corporation, nonprofit corporation or
1824 cooperative nonprofit membership, estate, trust, business trust, receiver, trustee,
1825 syndicate, or any other group or combination acting as a unit, the plural as well as the
1826 singular number, excepting the United States of America, the State of Georgia, and any
1827 political subdivision of either thereof upon which the City is without power to impose the
1828 tax herein provided.

1829
1830 *Purchase price* means the consideration received for the sale of alcoholic beverages
1831 by the drink valued in money, whether received in cash or otherwise, including all
1832 receipts, cash, credits and property or services of any kind or nature, and also the
1833 amount for which credit is allowed by the licensee to the purchaser, without any
1834 deduction therefrom whatsoever.

1835
1836 *Purchaser* means any person who orders and gives present or future consideration for
1837 any alcoholic beverages by the drink.

1838
1839 *Tax* means the tax imposed by this division.

1840
1841 **Sec. 16-8002. -Administration.**

1842
1843 (a) *Authority of City Treasurer.* The City Finance Department will administer and
1844 enforce the provisions of this title for the levy and collection of the tax imposed by
1845 this title.

1846
1847 (b) *Rules and regulations.* The City Finance Department has the power and authority
1848 to make and publish reasonable rules and regulations not inconsistent with this title
1849 or other laws of the City and the State of Georgia or the constitution of this state or
1850 the United States for the administration and enforcement of the provisions of this
1851 division and the collection of the taxes hereunder.

- (c) *Records required from operators; form.* Every licensee for the sale of alcoholic beverages by the drink in the City to a person must keep such records, receipts, invoices and other pertinent papers in any form as the City Finance Department, which shall consist of the City Finance Director and/or his designee, may require.
- (d) *Examination of records; audits.* The City Finance Department may examine the books, papers, records, financial reports, equipment, and other facilities of any licensee liable for the tax, in order to verify the accuracy of any return made, or if no return is made by the licensee, to ascertain and determine the amount required to be paid.
- (e) *Authority to require report; contents.* In administration of the provisions of this title, the City Finance Department may require the filing of reports by any person or class of persons having in such person's possession or custody information relating to sales of alcoholic beverages which are subject to the tax. The report must be filed with the City Finance License Department when required and must set forth the price charged for each sale, the date or dates of sale, and such other information as the City Finance Department may require. The City Finance Department will report to the City business license and police department all determinations finding the licensee deficient under this title.
- (f) *Disclosure of business of operators; limitation on rule.* The City Finance Department or any other department or person having an administrative duty under this division will not make known in any manner the business affairs, operations, or information obtained by an audit of books, papers, records, financial reports, equipment, and other facilities of any licensee or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person not having such administrative duty under this division, except in the case of judicial proceedings or other proceedings necessary to collect the tax hereby levied and assessed. Successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, may be given information as to the items included in the measure and amount of unpaid tax or amounts of tax required to be collected, interest, and penalties.

DIVISION 2. - DISTILLED SPIRITS AND WINE

Sec. 16-8003. - Distilled spirits by the package; rate.

The excise tax levied on the sale of distilled spirits by the package, at either the wholesale or retail level, is hereby set at the rate of \$0.22 per liter of distilled spirits, excluding fortified wines, and a proportionate tax at like rates on all fractional parts of a liter.

Sec. 16-8004. - Wine by the package; rate.

The excise tax levied on the first sale or use of wine by the package is hereby set at \$0.22 per liter, and a proportionate tax at like rates on all fractional parts of a liter.

Sec. 16-8005. - Method of collection.

The excise taxes imposed by this division will be collected by all wholesalers selling alcoholic beverages to persons holding retail licenses for sale to the same, in the City. Said excise taxes will be collected by the wholesalers at the time of the wholesale sale of such beverages. It is the duty of each wholesaler to remit the proceeds so collected to the alcoholic beverage tax and business license division, on or before the 15th day of each month, for the preceding calendar month. This remittance must be accompanied by a statement under oath showing the total sales of each type of alcoholic beverage, by volume and price, sold to every person holding a retail license for the sale of alcoholic beverages in the City. Failure to file such a statement, or to remit the tax collected on or before the 15th day of each month, will be grounds for suspension or revocation as provided for by this title, provided that the wholesalers making such remittance are entitled to retain two percent of the amounts collected as compensation for their duties under this section.

Sec. 16-8006. - Failure to pay; grounds for suspension or revocation of retail license.

Failure to pay the taxes imposed by this title will be grounds for suspension or revocation of any retail license to sell alcoholic beverages in the City. If any holder of a retail license fails to pay the taxes imposed by this division of this title, it will be grounds for suspension or revocation of any retail license to sell alcoholic beverages in the City. If any holder of a retail license fails or refuses to pay to the wholesaler selling to him alcoholic beverages the tax imposed by this division, the wholesaler must immediately report such failure to pay to the alcoholic beverage tax division and make no further sales of any alcoholic beverages to said retailer until receipt of written notification to do so from the division. In such event, the tax may be collected by the City by an action at law against that retailer.

DIVISION 3. - MALT BEVERAGES

Sec. 16-8007. - Levy of excise tax on sale; reporting of sales; payment of tax.

- (a) There is hereby levied and imposed upon all wholesale dealers selling malt beverages within the City, a specific excise tax in the amount of \$0.05 per 12 ounces (or proportionately thereof so as to graduate the tax on bottles, cans, and containers of various sizes), and an excise tax on top or draft beer in the sum of \$6.00 for each container sold as hereinafter specified, containing not more than 15½ gallons and at a like rate for fractional parts, where the beverage is sold in or

1947 from a barrel or bulk container, such beverage being commonly known as tap or
1948 draft beer, sold by each wholesale dealer within the City, to be paid as follows:
1949

- 1950 (b) On or before the 10th day of each month, each wholesale dealer selling malt
1951 beverages within the City, must file with the City Finance Department a report on
1952 forms furnished by the Finance Department, disclosing for the preceding calendar
1953 month the exact quantities of malt beverages, by size and type of container. The
1954 report will constitute a beginning and ending inventory of malt beverages for the
1955 month, sold within the City. Each such wholesale dealer must remit to the City
1956 Finance Department on the 10th day of the month for the preceding calendar month
1957 in which such sales were made, the amount of excise tax due in accordance with
1958 this title.
1959

1960 **Sec. 16-8008. - Excise tax in addition to other fees and taxes.**
1961

1962 The excise tax provided for hereinabove is in addition to any license fee, tax, or
1963 charge which may now or in the future be imposed upon the business of selling malt
1964 beverages at retail or wholesale, within the City.
1965

1966 **Sec. 16-8009. - Penalties for late reporting and payment.**
1967

1968 The failure to make a timely report and remittance, as above provided, may render
1969 a wholesale dealer liable for a penalty equal to two percent of the total amount due
1970 during the first 30-day period following the date such report and remittance were due,
1971 and a further penalty of five percent of the amount of such remittance for each
1972 successive 30-day period, or any portion thereof, during which such report and
1973 remittance are not filed. The filing of a false or fraudulent report will render the
1974 wholesale dealer making such report liable for a penalty equal to 20 percent of the
1975 amount of the remittance which would be required under an accurate and truthful report.
1976
1977

1978 **DIVISION 4. - SALES BY THE DRINK**
1979

1980 **Sec. 16-8010. - Penalty for violation of division.**
1981

1982 Any person violating any of the provisions of this division may be charged with an
1983 offense and, upon conviction thereof in the State Court of the City, will be assessed a
1984 fine of \$1 ,000.00 for each such offense. The person may be charged with a separate
1985 offense for each day during any portion of which any violation of any provision of this
1986 division is committed, continued, or permitted by this person.
1987

1988 **Sec. 6-8011. - Rate of tax.**
1989

1990 There is hereby imposed and levied upon every sale of an alcoholic beverage
1991 purchased by the drink in the City a tax in the amount of three percent of the purchase
1992 price of said beverage.
1993

1994 **Sec. 16-8012. - Records of sales.**

1995
1996 Every licensee for the sale of alcoholic beverages by the drink operating a place of
1997 business in the City must, at the time of collecting for food and drinks served, itemize
1998 separately the price of alcoholic beverages served. Where the charges for food and
1999 drink are satisfied by credit or deferred payment, the payment of the tax to the licensee
2000 may be deferred in a like manner; however, the licensee will be liable therefor at the
2001 time and to the extent that such credits are incurred.

2002
2003 **Sec. 16-8013. - Liability for payment of tax.**

2004
2005 Every licensee or his agent is hereby authorized and directed to collect the tax
2006 herein imposed from purchasers of alcoholic beverages by the drink sold within his
2007 licensed premises. Such licensee or his agent must furnish such information as may be
2008 requested by the City Finance Department to facilitate the collection of this tax. Any
2009 licensee who does not collect the tax on all retail sales made by him, or his agents, or
2010 employees, of alcoholic beverages, as defined herein, which are subject to the tax
2011 hereunder imposed, will be liable for and pay the tax himself.

2012
2013 **Sec. 16-8014. - Due dates, returns and collection fees.**

- 2014
2015 (a) *Due date of taxes.* All taxes collected by any licensee or agent hereunder are
2016 due and payable to the City Finance Department monthly on or before the 20th day
2017 of every month for the preceding calendar month.
2018
2019 (b) *Return; time of filing; persons required to file; execution.* On or before the 20th
2020 day of the month following each monthly period, a return for the preceding monthly
2021 period must be filed with the City Finance Department in such form as the City
2022 Finance Department may prescribe by every licensee or agent liable for the
2023 payment of tax hereunder.
2024
2025 (c) *Contents of return.* All returns must show the gross receipts from the sale of
2026 alcoholic beverages by the drink, amount of tax collected or authorized due for the
2027 related period, and such other information as may be required by the Finance
2028 Department. The returns shall be assessed and evaluated by the Finance
2029 Department.
2030
2031 (d) *Delivery of return and remittance.* The person required to file the return must
2032 deliver the return, together with the remittance of the net amount of tax due to the
2033 Finance Department.
2034
2035 (e) *Collection fee allowed operators.* Operators collecting the tax will be allowed a
2036 percentage of the tax due and accounted for and will be reimbursed in the form of a
2037 deduction in submitting, reporting and paying the amount due, if said amount is not
2038 delinquent at the time of payment. The rate of the deduction will be the same rate
2039 authorized for deductions from state tax under O.C.G.A. tit. 40, ch.8, art. 1
2040 (O.C.G.A. § 40-8-1 et seq.), as now or hereafter amended.

2041
2042 **Sec. 16-8015. - Deficiency determinations.**
2043

- 2044 (a) *Recomputation of tax; authority to make; basis of recomputation.* If the City
2045 Finance Department is not satisfied with the return or returns of the tax or the
2046 amount of the tax required to be paid to the City by any person, it may compute and
2047 determine the amount required to be paid upon the basis of any information within
2048 his possession or that may come into his possession. One or more deficiency
2049 determinations may be made of the amount due for one or more monthly periods.
2050
- 2051 (b) *Interest on deficiency.* The amount of the determination, exclusive of penalties,
2052 will bear interest at the rate of three-fourths of one percent per month, or fraction
2053 thereof, from the 20th day after the close of the monthly period for which the amount
2054 or any portion thereof should have been returned until the date of payment.
2055
- 2056 (c) *Offsetting of overpayments.* In making a determination the City Finance
2057 Department may offset overpayments, for a period or periods, against
2058 underpayments, for another period or periods, against penalties, and against the
2059 interest on underpayments. The interest on overpayments will be computed in the
2060 manner set forth in this title.
2061
- 2062 (d) *Penalty; negligence or disregard of rules and regulations.* If any part of the
2063 deficiency for which a deficiency determination has been made is due to negligence
2064 or disregard of rules and regulations, a penalty of 15 percent of the amount of such
2065 deficiency will be added thereto.
2066
- 2067 (e) *Penalty for fraud or intent to evade.* If any part of the deficiency for which a
2068 deficiency determination is made due to fraud, or intent to evade any provisions of
2069 this regulation or other authorized rules and regulations, a penalty of 25 percent of
2070 the deficiency will be added thereto.
2071
- 2072 (f) *Notice of the Finance Department's determination; service of the finance*
2073 *department, or a designated representative, will give to the licensee, written notice of*
2074 *the determination. The notice may be served personally or by mail; if by mail, such*
2075 *service will be addressed to the licensee at his address as it appears in the records*
2076 *of the business license department. In the case of service by mail of any notice*
2077 *required by this title, the service is complete at the time of deposit in the United*
2078 *States Post Office.*
2079
- 2080 (g) *Time within which notice of deficiency determination to be mailed.* Except in the
2081 case of fraud, intent to evade this division, or authorized rules or regulations, or
2082 failure to make a return, every notice of deficiency determination will be mailed
2083 within three years after the 20th of the calendar month following the monthly period
2084 for which the amount is proposed to be determined, or within three years after the
2085 return is filed, whichever period should last expire.
2086
2087

2088 **Sec. 16-8016. - Determination of tax if no return made.**

- 2089
- 2090 (a) *Estimate of gross receipts.* If any licensee fails to make a return, the City Finance
- 2091 Department may make an estimate of the amounts of the gross receipts of the
- 2092 licensee, or as the case may be, of the amount of the total sales in the City which
- 2093 are subject to the tax. The estimate will be made for the period or periods in respect
- 2094 to which the licensee failed to make the return and may be based upon any
- 2095 information which is or may come into the possession of the Finance Department.
- 2096 Upon the basis of this estimate, the City Finance Department will compute and
- 2097 determine the amount required to be paid the City, adding to the sum thus
- 2098 determined a penalty equal to 15 percent thereof. One or more determinations may
- 2099 be made for one or more periods.
- 2100
- 2101 (b) *Manner of computation; offsets; interest.* In making a determination the City
- 2102 Finance Department may offset overpayments for a period or penalties, and against
- 2103 the interest on the underpayments. The interest on underpayments will be computed
- 2104 in the manner set forth in subsection (c).
- 2105
- 2106 (c) *Interest on amount found due.* The amount of the determination, exclusive of
- 2107 penalties, will bear interest at the rate of three-fourths of one percent per month, or
- 2108 fraction thereof, from the 20th day of the month following the monthly period, for
- 2109 which the amount or any portion thereof should have been returned, until the date of
- 2110 payment.
- 2111
- 2112 (d) *Penalty for fraud or intent to evade.* If the failure of any person to file a return is
- 2113 due to fraud or intent to evade this title or rules and regulations, a penalty of 25
- 2114 percent of the amount required to be paid by the person, exclusive of penalties, shall
- 2115 be added thereto in addition to the 15 percent penalty provided in this title.
- 2116
- 2117 (e) *Giving of notice; manner of service.* Promptly after making a determination, the
- 2118 City Finance Department will give to the person written notice to be served
- 2119 personally or by mail in the manner prescribed for service of notice of a deficiency
- 2120 determination.
- 2121

2122 **Sec. 16-9017. - Penalties and interest for failure to pay tax.**

2123

2124 Any person who fails to pay the tax herein imposed to the City, or fails to pay any

2125 amount of such tax required to be collected and paid to the City Finance Department,

2126 within the time required, will pay a penalty of 15 percent of the tax, or amount of the tax,

2127 in addition to the tax or amount of the tax, plus interest on the unpaid tax or any portion

2128 thereof as set forth herein.

2129

2130 **Sec. 16-8018. - Collection of tax.**

- 2131
- 2132 (a) *Action for tax; time for.* The City Finance Department shall be responsible for
- 2133 collection of the tax under this title. At any time within three years after any tax or
- 2134 any amount of tax required to be collected becomes due and payable and at any

time within three years after the delinquency of any tax or any amount of tax required to be collected, the business license department may bring an action in the courts of this state, or any other state, or of the United States in the name of the City to collect the amount delinquent, together with penalties and interest, court fees, filing fees, attorneys' fees, and other legal fees incident thereto.

(b) *Duty of successors or assignees of operator to withhold tax from purchase money.* If any operator liable for any amount under this title sells out his business or quits the business, his successors or assigns must withhold sufficient of the purchase price to cover this amount until the former owner produces a receipt from the City Finance Department showing that he has been paid or a certificate stating that no amount is due.

(c) *Liability for failure to withhold; certificate of notice of amount due; time to enforce successor's liability.* If the purchaser of a business fails to withhold purchase price as required, he becomes personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price, valued in money. Within 30 days after receiving a written request from the purchaser for a certificate, the City Finance Department will either issue the certificate or mail notice to the purchaser at his address as it appears on the records of the City Business License Department of the amount that must be paid as a condition of issuing the certificate. The time within which the obligation of a successor may be enforced will start to run at the time the operator sells out his business or at the time that the determination against the operator becomes final, whichever event occurs the later.

(d) *Tax credit, penalty, or interest paid more than once or illegally collected.* Whenever the amount of any tax, penalty, or interest has been paid more than once, or has been erroneously or illegally collected or received by the City under this title, it may be offset as provided in the City code. If the operator or person determines that he has overpaid or paid more than once, which fact has not been determined by the business license department, he will have three years from the date of payment to file claim in writing stating the specific ground upon which the claim is founded. The claim will be audited. If the claim is approved by the Finance Department, the excess amount paid the City may be credited on any amounts then due and payable from the person by whom it was paid or his administrators or executors.

Sec. 16-8019. - Administration and enforcement of this title.

(a) The city revenue division shall administer and enforce the provisions of this article.

(b) The City Manager or designee may promulgate rules and regulations for the enforcement of this article.

(c) Every licensee engaging in the sale of mixed drinks shall keep such records, receipts, invoices, and other pertinent papers in such form as may be required by the city.

(d) The City Finance Department may examine the books, papers, records, financial reports, equipment, and facilities of any licensee, person or business engaging in the sale of any alcoholic beverage, retail or wholesale, in order to verify the accuracy of any return, or if no return is made to ascertain the amount of tax due.

(e) In the administration of the provisions of this article, the city revenue division may require the filing of reports by any person or class of persons having in their possession or custody any information relating to purchases subject to taxation under this article.

CHAPTER 9. ALCOHOL FEE SCHEDULE

Sec. 16-9001. – Fee Schedule

The following alcohol licenses fees are hereby established and shall be payable by check or money order, as applicable, at the time of filing the alcohol application:

Administrative Fees

Alcohol License Application Processing Fee.....	\$450.00
Background/Fingerprint Fee	\$55.00
Advertising Fee	\$505.00
Fire Inspection Fee	\$75.00

Retail Consumption on Premises

Liquor	\$3200.00
Beer	\$650.00
Wine	\$650.00
Add'l Bar/Lounges	\$1000.00ea.
BYOB Wine	\$125.00
Wine & Malt Beverage Tasting (No Distilled Spirits/Liquor).....	\$50.00ea.

Special Permit Fees

Non-Profit Special Event Beer, Wine, & Distilled Spirits/Liquor.....	\$50.00
For-Profit Special Event Beer & Wine	\$125.00
For-Profit Special Event Distilled Spirits/Liquor	\$125.00
Annual Off Premises Catering License	\$200.00
Off Premises per Event Catering Permit	\$50.00

Retail Package

Distilled Spirits/Liquor	\$3000.00
Beer	\$400.00
Wine	\$400.00

Temporary Alcohol License Fees

Distilled Spirits/Liquor (Sale/Consumption on Premises)	\$500.00
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2223	Beer and Wine (Sale/Consumption on Premises)	\$250.00
2224	Beer and Wine (Retail Package)	\$250.00
2225		
2226	<u>Wholesale:</u>	
2227	Distilled Spirits/Liquor.....	\$3500.00
2228	Beer	\$500.00
2229	Wine	\$500.00
2230	Location Outside of City	\$100.00
2231		
2232	<u>Manufacturer (Distillery):</u>	
2233	Distilled Spirits/Liquor	\$4000.00
2234	Beer	\$500.00
2235	Wine	\$500.00
2236		
2237	<u>Microbrewery</u>	\$2000.00
2238		
2239	<u>Farm Winery</u>	\$2000.00
2240		
2241	<u>Growler</u>	\$2000.00
2242	<u>Section 2.</u> Appendix F, Alcohol License Fee Schedule, to the City of South Fulton	
2243	Code of Ordinances is hereby deleted in its entirety.	
2244		

2245 *****

2246 **Section 3.** It is hereby declared to be the intention of the City Council that: (a) All

2247 sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were,

2248 upon their enactment, believed by the City Council to be fully valid, enforceable and

2249 constitutional.

2250 (b) To the greatest extent allowed by law, each and every section, paragraph,

2251 sentence, clause or phrase of this Ordinance is severable from every other section,

2252 paragraph, sentence, clause or phrase of this Ordinance. No section, paragraph,

2253 sentence, clause or phrase of this Ordinance is mutually dependent upon any other

2254 section, paragraph, sentence, clause or phrase of this Resolution.

2255 (c) In the event that any phrase, clause, sentence, paragraph or section of this

2256 Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or

2257 otherwise unenforceable by the valid judgment or decree of any court of competent

2258 jurisdiction, it is the express intent of the City Council that such invalidity,

2259 unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not

2260 render invalid, unconstitutional or otherwise unenforceable any of the remaining

2261 phrases, clauses, sentences, paragraphs or sections of the Ordinance.

2262 **Section 4.** All Ordinance and Resolutions in conflict herewith are hereby expressly

2263 repealed.

2264 **Section 5.** The City Attorney, City Clerk and contracted City Codifier are authorized
2265 to make non-substantive formatting and renumbering edits to this ordinance for
2266 proofing, codification, and supplementation purposes. The final version of all
2267 ordinances shall be filed with the clerk.

2268 **Section 6.** The effective date of this Ordinance shall be on the date as set forth
2269 under Sec. 3.21 of the City Charter unless provided otherwise by applicable local, state
2270 and/or federal law.
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The foregoing Ordinance No. 2019-038 was moved for approval by Councilmember Willis. The motion was seconded by Councilmember Baker, and being put to a vote, the result was as follows:

	AYE	NAY
William "Bill" Edwards, Mayor	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mark Baker, Mayor Pro Tem	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Catherine Foster Rowell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Carmalitha Lizandra Gumbs	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Zenobia Willis	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gertrude Naeema Gilyard	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Rosie Jackson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
khalid kamau	<input type="checkbox"/>	<input checked="" type="checkbox"/>

2357 THIS ORDINANCE so adopted this 24th day of September 2019.

2358
2359 **CITY OF SOUTH FULTON, GEORGIA.**

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2363 
2364 _____
WILLIAM "BILL" EDWARDS, MAYOR

2365
2366 ATTEST:
2367
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2369 
2370 _____
COREY E. ADAMS, SR., DEPUTY CITY CLERK

2371
2372 APPROVED AS TO FORM:

2373
2374 
2375 _____
2376 EMILIA C. WALKER, CITY ATTORNEY

